



EMPLOYMENT TRIBUNALS

Claimant: Mr M Awan
Respondents: 1. Mr R Tilling
2. Royal Mail Group Limited

Heard at: Reading Employment Tribunal
On: 30 June, 1 and 2 July 2026

Before: Employment Judge Hawksworth
Mrs C Bailey
Mrs C Tufts

Representation:
The claimant: represented himself
For the respondent: Ms H Kendrick (solicitor)

JUDGMENT

1. The complaint of unfair dismissal against the second respondent is not well-founded and is dismissed.
2. The complaints against the second respondent of failure to make reasonable adjustments, discrimination arising from disability, and disability-related harassment fail and are dismissed.
3. The complaint against the first respondent of failure to make reasonable adjustments fails and is dismissed.

FULL REASONS

Introduction – claim, issues and hearing

1. The claimant was an OPG (Operational Postal Grade). He was employed by the second respondent from 10 June 2012 until he was dismissed on 29 January 2024. At the time of his dismissal he had been absent from work on sick leave since 22 November 2022, over 14 months.
2. The claimant presented his claim on 8 May 2024. The respondents presented their responses on 19 July 2024.
3. The issues for determination in the claimant's claim were set out in a list of issues which was discussed and recorded at a preliminary hearing on 12 August 2025.

The list of issues was at pages 66 to 69 of the agreed hearing bundle. In summary the claimant made:

- 3.1. complaints of unfair dismissal, failure to make reasonable adjustments, discrimination arising from disability, and disability-related harassment against the second respondent, his employer; and
 - 3.2. a complaint of failure to make reasonable adjustments against the first respondent, a manager and employee of the second respondent.
4. The hearing took place in person at Reading employment tribunal on 30 June, 1 and 2 July 2026.
 5. The bundle ran to page 383. On the morning of the second day of the hearing, the claimant provided some late disclosure which was included in the bundle by consent. It was a copy of a letter and emails between the claimant and his manager sent on 6 and 12 January 2023, and a text between them on 17 January 2023.
 6. After reading the witness statements, on day 1 we heard evidence from the claimant and from the respondent's witness Binod Basnet. On the second day we heard evidence from the first respondent and the respondent's witness Julie Forde. The respondent had no questions for the claimant's witness Mohammed Ali so we accepted his evidence as written in his statement. We took a break before each of the respondent's witnesses to allow the claimant time to look at their witness statements and gather his thoughts before asking his questions.
 7. Closing comments were made on the afternoon of the second day. The respondent's solicitor made written closing comments and brief oral closing comments. The claimant replied to the respondent's closing comments and made an oral closing statement.
 8. After time for deliberation, we gave the parties our decision on the third day. We told the parties our judgment and then gave oral summary reasons under rule 60(4A)(b)(i) of the Employment Tribunal Procedure Rules 2024. We explained how we applied the legal principles to the facts to reach our decision in respect of each of the issues for determination. The conclusions section of these written full reasons reflects the oral summary reasons we gave.
 9. The claimant's complaints of unfair dismissal, failure to make reasonable adjustments, discrimination arising from disability and harassment related to disability failed and were dismissed.
 10. The claimant requested written reasons at the end of the hearing on 2 July 2026. We have decided that it is appropriate to provide written full reasons under rule 60(4E). The employment judge apologises to the parties for the delay in promulgation of the judgment and reasons. This was because of the current workload in the employment tribunal.
 11. In these reasons, we refer to Royal Mail Group Limited (the second respondent) as the respondent, and to Richard Tilling (the first respondent) as Mr Tilling.

Findings of fact

12. The claimant started working for the respondent on 10 June 2012. On 7 June 2022 he started a new role at Heathrow Worldwide Distribution Centre (HWDC).
13. On 22 November 2022 the claimant began a period of sickness absence. His line manager asked him to maintain regular contact during his sickness absence.
14. The claimant was referred to occupational health in February 2023 and a report was prepared (page 151). It said that perceived work-related issues were affecting his emotional wellbeing and that there were legal issues pending. The OH advisor's opinion was that the claimant would be unfit for work until the perceived work related issues were resolved. The legal issues referred to were a previous employment tribunal claim brought by the claimant. It was due to be heard in September 2024. The OH advisor said that in her opinion the claimant's anxiety would be considered to amount to a disability under the Equality Act.
15. The claimant reported to his GP and the OH advisor that phone calls with his managers were increasing his stress and anxiety. The OH advisor recommended completion of a stress risk assessment.
16. In early March 2023 a new line manager took over responsibility for the claimant. She had difficulty contacting him. On 30 March 2023 she wrote to him to say that his sick pay would be stopped from 4 April 2023 because of his failure to respond to her e-mails and to complete a stress risk assessment form (page 165). The stress risk assessment policy said that failure to complete an assessment would not lead to stopping of pay.
17. The claimant had another new line manager from 5 July 2023. His new manager was Binod Basnet. In light of the difficulties contacting the claimant, Mr Basnet decided to visit the claimant at his home. The visit took place on 5 July 2023 (page 186). A home visit was outside the respondent's policy. Mr Basnet agreed to do it because it seemed to be the only way he could contact the claimant to understand what support could be provided to get the claimant back to work in some capacity.
18. During the meeting with Mr Basnet at his home, the claimant had to take a break because he felt that he was having a panic attack.
19. At the meeting on 5 July 2023, Mr Basnet and the claimant agreed that they would maintain contact by e-mail. However, Mr Basnet made clear that some face to face contact would also be required.
20. After the meeting Mr Basnet arranged for the claimant's pay to be reinstated and for arrears of pay to be paid. The claimant's pay was reinstated from 11 July 2023. The arrears were paid by 18 July 2023 (page 192).
21. The claimant and Mr Basnet maintained contact by e-mail for a while. In August and September 2023 Mr Basnet was on holiday and had a period of sick leave. During that period, another manager took over the role of maintaining contact with

the claimant. That manager tried to call the claimant to speak to him on the phone. The claimant was unhappy about being contacted in that way.

22. The claimant was referred to occupational health again in August 2023. He had a telephone appointment and a report was produced (page 211). It referenced the perceived work related issues and the pending legal issues. The OH advisor was of the same opinion that the claimant would be unfit for work until the perceived work-related issues were resolved.
23. In October 2023 Mr Basnet took over line management again. He wrote to the claimant inviting the claimant to meet him at a neutral work location (not HWDC) (page 213 and 216). The claimant failed to attend a meeting in October.
24. Mr Basnet invited the claimant to two further meetings on 1 November and 24 November 2023 (page 234). The claimant did not attend the meetings.
25. In light of the difficulties maintaining contact with the claimant, line management of the claimant transferred to a more senior manager, Richard Tilling.
26. Mr Tilling wrote to the claimant on 12 December 2023 to ask him to attend a meeting on 20 December 2023 (page 217). The claimant replied to say that he would not be attending (page 221). He requested contact with Mr Basnet only, and by email only. He said if face to face contact was required, it should be at his home. The claimant failed to attend the meeting with Mr Tilling.
27. Mr Tilling invited the claimant to another meeting on 29 December 2023 (page 225). Mr Tilling proposed that the meeting take place at HWDC or at Slough Delivery office, a neutral work venue. The claimant wrote to Mr Tilling to say that he would not be attending the meeting (page 229). He asked that Mr Basnet manage his absence and that meetings take place at his home address only. The claimant failed to attend the meeting.
28. After the claimant did not attend the meetings, Mr Tilling reviewed the claimant's case and prepared a report. He decided to dismiss the claimant. He wrote to the claimant on 29 January 2024. We find that the reasons for dismissal were as set out in that letter. They were:
 - "1. The business has no reasonable prospect of knowing when you will be fit to return to work, and in what capacity.
 2. The business is not satisfied that you intend to return to your employment with Royal Mail Group in the foreseeable future."
29. We find that the principal reason for the dismissal was the claimant's long-term absence from work and the lack of a clear timeline for his return.
30. The claimant appealed against his dismissal. His appeal was heard by Julie Forde. The claimant attended the appeal hearing by video. The hearing first took place on 22 February 2024 but was adjourned because the claimant did not have the file of documents (page 277). It continued on 27 February 2024 by which time the claimant had received the file of documents (page 280).

31. At the appeal hearing on 27 February 2024 Mrs Forde asked the claimant when he thought he would be fit to return to work. He said:

“Give me one month to talk to my doctor, I could do talking therapies and after that management could call me and maybe in a month I could come back to the company in some capacity.”

32. When Mrs Forde asked what capacity the claimant could return to work in, he said he could maybe return to work one day a week but he did not envisage being able to attend a meeting with management until his union representative returned to work on 2 April 2024. This was a suggested timetable of over a month before the respondent could take the first step towards possibly arranging for the claimant to return to work one day a week.

33. The minutes of the appeal hearing were sent to the claimant on 29 February 2024 (page 286). He was offered the opportunity to make amendments to the note but chose not to make any changes. We accept that the notes are a broadly accurate record of the appeal hearing.

34. Mrs Forde made further enquiries after the appeal hearing. She sent the further information she obtained from those enquiries to the claimant for his comments (page 288).

35. Mrs Forde felt that there was no real indication of when the claimant would be able to return to work. She decided to uphold the decision to dismiss and wrote to the claimant to tell him the outcome of his appeal (page 359).

36. The claimant notified Acas for early conciliation on 19 April 2024 and the early conciliation certificate was dated 23 April 2024. The claimant presented his claim on 8 May 2024.

The law

Unfair dismissal

37. Section 98 of the Employment Rights Act 1996 sets out the legal tests to be applied in a case of ‘ordinary’ unfair dismissal. As far as is material in this case, it says:

“(1) In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show—

(a) the reason (or, if more than one, the principal reason) for the dismissal, and

(b) that it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.

(2) A reason falls within this subsection if it—

(a) relates to the capability or qualifications of the employee for performing work of the kind which he was employed by the employer to do,

...

(3) In subsection (2)(a)—

(a) “capability”, in relation to an employee, means his capability assessed by reference to skill, aptitude, health or any other physical or mental quality, and

(b) “qualifications”, in relation to an employee, means any degree, diploma or other academic, technical or professional qualification relevant to the position which he held.

(4) Where the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer)—

(a) 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

(b) shall be determined in accordance with equity and the substantial merits of the case.”

38. It is for the respondent to show the reason for dismissal and that it was a potentially fair reason. In a capability case, that means showing that the respondent genuinely believed that the claimant lacked capability for work.

39. If the respondent succeeds in showing that there was a potentially fair reason for dismissal, the fairness of the dismissal is considered on a neutral basis. The tribunal must not substitute its own view of the appropriate outcome for that of the employer. In a case where the reason for dismissal is a capability reason, the following factors are likely to be relevant to the fairness of the dismissal:

39.1. whether the respondent had reasonable grounds for believing that the claimant lacked capability for work;

39.2. whether that belief was based on a reasonable investigation, including obtaining appropriate medical advice;

39.3. whether a fair procedure was adopted overall, including whether the respondent adequately consulted with the claimant;

39.4. whether, in the circumstances, dismissal was within the range of reasonable responses, including whether the respondent should have waited longer for the claimant to recover.

Disability

40. Disability is a protected characteristic under sections 4 and 6 of the Equality Act 2010.

Failure to make reasonable adjustments

41. The Equality Act imposes a duty on employers to make reasonable adjustments. The duty comprises three requirements, in this case, the first requirement is relevant. This is set out in sub-section 20(3):

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

42. Paragraph 20 of schedule 8 of the Equality Act says that an employer, A, is not subject to a duty to make reasonable adjustments:

“if A does not know, and could not reasonably be expected to know –

...

(b) ... that an interested disabled person has a disability and is likely to be placed at the disadvantage referred to in the first, second or third requirement.”

43. In *Archibald v Fife Council* [2004] ICR 954, explaining the duty to make reasonable adjustments, Lady Hale said:

“... to the extent that the duty to make reasonable adjustments requires it, the employer is not only permitted but obliged to treat a disabled person more favourably than others.”

Discrimination arising from disability

44. Section 15(1) of the Equality Act 2010 provides that 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.”

45. Section 15(2) says that:

“Subsection (1) does not apply if A shows that A did not know, and could not

reasonably have been expected to know, that B had the disability.”

46. In *Pnaiser v NHS England and anor* 2016 IRLR 170, the EAT summarised the approach to be taken under section 15:

- 46.1. The tribunal must identify whether there was unfavourable treatment and by whom.
- 46.2. It must determine the cause of or reason for the treatment, focusing on the conscious or unconscious thought processes of the alleged discriminator.
- 46.3. There may be more than one reason or cause for the treatment and, as in a direct discrimination case, the ‘something’ need not be the main or sole reason for the treatment but it must have at least a significant (more than trivial) influence so as to amount to an effective reason for or cause of it.
- 46.4. The tribunal must determine whether the reason or cause (or a reason or cause) is something arising in consequence of the claimant’s disability. That is an objective question and does not depend on the thought processes of the alleged discriminator. The expression ‘arising in consequence of’ could describe a range of causal links, for example it could include more than one link.
- 46.5. If an effective reason or cause is ‘something arising in consequence of’ the claimant’s disability, the tribunal will decide whether the respondent can show that the treatment is a proportionate means of achieving a legitimate aim.

Harassment

47. Under section 26 of the Equality Act, a person (A) harasses another (B) if

“a) A engages in unwanted conduct related to a relevant protected characteristic, and

b) the conduct has the purpose or effect of –

i) violating B’s dignity, or

ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.”

48. Disability is a relevant protected characteristic for the purpose of section 26.

49. Conduct amounts to harassment if it has the required purpose or, in the alternative, the required effect. In a claim based on the effect of conduct, a lack of intent by the alleged harasser is not a defence. In deciding whether conduct has the effect referred to, the tribunal must take into account:

“a) the perception of B;

b) the other circumstances of the case;

c) whether it is reasonable for the conduct to have that effect.”

50. There are therefore both objective and subjective elements to the test about effect. The tribunal is required to consider whether, if the claimant has experienced those effects, it was reasonable for them to do so.

Time limit for complaints under the Equality Act

51. The time limit for making a complaint under the Equality Act is set out in section 123. That says, as far as is relevant here:

“(1) Subject to section 140B proceedings on a complaint within section 120 may not be brought after the end of—

(a) the period of 3 months starting with the date of the act to which the complaint relates, or

(b) such other period as the employment tribunal thinks just and equitable.

...

(3) For the purposes of this section—

(a) conduct extending over a period is to be treated as done at the end of the period;

(b) failure to do something is to be treated as occurring when the person in question decided on it.”

52. Section 140B relates to the extension of time for Acas early conciliation. A period of Acas early conciliation which starts after a time limit has expired does not affect the calculation of that time limit.

Burden of proof in complaints under the Equality Act

53. Sections 136(2) and (3) provide for a shifting burden of proof:

“(2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.

(3) This does not apply if A shows that A did not contravene the provision.”

54. This means that if there are facts from which the tribunal could properly and fairly conclude that there has been unlawful discrimination, the burden of proof shifts to the respondent.

55. If the burden shifts to the respondent, the respondent must provide an adequate explanation, which proves on the balance of probabilities that the respondent did not discriminate. The respondent would normally be expected to produce “cogent evidence” to discharge the burden of proof. If there is a prima facie case and the

explanation for that treatment is unsatisfactory or inadequate, then it is mandatory for the tribunal to make a finding of discrimination.

Conclusions

Unfair dismissal

56. The legal test is set out in section 98 of the Employment Rights Act. It has two parts.
57. The first part is that the employer must show that dismissal was for one of the reasons given in section 98. They are known as potentially fair reasons. They are the only reasons for which someone can be fairly dismissed once they have worked for their employer for more than two years, as Mr Awan had.
58. The respondent relied on some other substantial reason or, in the alternative, capability. Both of those are potentially fair reasons for dismissal in section 98.
59. We have found that the reason for the dismissal of the claimant was as set out in the dismissal letter, that is that the business had no reasonable prospect of knowing when Mr Awan would be fit to return to work and in what capacity, and was not satisfied that he intended to return to work in the foreseeable future.
60. The lack of contact from the claimant was a factor in the decision because it meant that the respondent had less information than it would have wanted about the claimant's health and likely return to work. However, the claimant was not dismissed for failing to maintain contact. That was not the principal reason for dismissal. We found that the principal reason was the claimant's long-term absence from work and the lack of a clear timeline for his return.
61. Mr Tilling who made the decision to dismiss, and Mrs Forde who decided the appeal, had a genuine belief in the claimant's lack of capability to perform his role as set out in the dismissal letter. There was no suggestion of any hidden agenda. Mr Tilling, and later Mrs Forde, made the decisions themselves without being influenced by anyone else.
62. Mr Tilling and Mrs Forde had a genuine belief in Mr Awan's lack of capability to perform his role. We have decided that the principal reason is better described as a reason related to capability than as some other substantial reason. We accept that this first part of the test, the reason for dismissal, is satisfied.
63. We go on to the second part of the unfair dismissal test which is set out in section 98(4). That requires us to consider whether the dismissal was fair in all the circumstances. We look at whether the respondent acted reasonably in treating the lack of capability as a sufficient reason to dismiss.
64. We consider this overall fairness question on a neutral basis. That means neither party has the burden of proving these points. Our role is not to make our own decision about whether the claimant should have been dismissed. We do not decide whether we would have dismissed Mr Awan in these circumstances. We

are not looking at whether the decision was the right decision. Our role is more limited than that.

65. The reason for this more limited role is that the law recognises that different employers might adopt different approaches in the same situation. So, the rules we apply accept that there might be more than one reasonable approach. We have to assess whether this decision, by this respondent, is one of the reasonable approaches. Another way of putting it is that we ask whether the decision taken here was outside the range of reasonable responses of a reasonable employer.
66. We look at a number of factors when deciding this overall fairness question, including, in cases involving capability and long-term absence, four questions which we have called (a) to (d):
- (a) whether the respondent had reasonable grounds for believing that Mr Awan lacked capability for work;
 - (b) whether that belief was based on a reasonable investigation, including obtaining appropriate medical advice;
 - (c) whether a fair procedure was adopted overall, including whether the respondent adequately consulted with the claimant;
 - (d) finally, we ask whether in the circumstances, dismissal was within the range of reasonable responses, including whether the respondent should have waited longer for the claimant to recover.
67. We start with question (a) - whether there were reasonable grounds for the respondent's belief in Mr Awan's lack of capability to perform his role.
68. At the time of the dismissal, Mr Awan had been off work for more than 14 months. The respondent had received medical advice that he would not be fit to return to work until the perceived work-related issues were resolved. That was unlikely to be until after the hearing of the (previous) employment tribunal claim in September 2024, a further eight months later. The medical advice was consistent and was not disputed by the claimant. Those were reasonable grounds for the belief.
69. As to question (b), we have concluded that the respondent carried out a reasonable investigation into capability at the time of making its decision. It obtained medical advice from its OH advisors. Although the latest report from OH was prepared about five months before the dismissal decision, it was reasonable for the respondent to think that no further update from OH was needed, in light of the advice that Mr Awan would not be fit to return until the work-related issues were resolved, and the time frame for the employment tribunal hearing.
70. Question (c) is about the fairness of the procedure overall, including consultation with the claimant. The respondent took steps to consult with Mr Awan. The scope for doing that was quite limited because of his difficulties engaging.

71. We have carefully considered the criticisms made by Mr Awan of the dismissal process and, in particular, the question as to whether the respondent's requirement for Mr Awan to attend meetings at work meant that the procedure was not fair. There are two parts to this: first the requirement to attend a meeting at all and then, the proposed location of the meeting.
72. In relation to the requirement to attend a meeting at all, we accept that it was reasonable to require this, so that Mr Awan could discuss his sickness absence with the employer face to face rather than the respondent only being able to rely on information provided in emails. As Mr Tilling explained, in a meeting you are able to see the person, engage with them, dig a little deeper, try and resolve their issues. There is a lesser connection if an employer is reviewing absence by reference to email updates only. We cannot say that no reasonable employer would have taken the approach of requiring attendance at a meeting in these circumstances.
73. The second issue about the meetings is whether it would have been reasonable to hold them at Mr Awan's home rather than requiring him to attend a work location.
74. Mr Awan said that as Mr Basnet had attended his home once, this could have been done for all the meetings. We thought about this carefully. We have decided that it was not outside the range of reasonable responses to require the meetings to take place at a work location. Our reasons for this are that:
- 74.1. Mr Basnet was an operational manager and it was not viable for him to attend all meetings at Mr Awan's home. He had agreed to do so once as an exception, to try to reinstate contact, but that did not mean that after that all meetings could be held in that way.
- 74.2. Mr Tilling reasonably thought that there might be safety issues in principle with attending a formal capability meeting, which might result in dismissal, in an employee's home. He was aware of colleagues being assaulted during disciplinary meetings.
- 74.3. The respondent did not require Mr Awan to attend his workplace. A neutral work location was offered for the October and November meetings and for the second of the December meetings.
- 74.4. Mr Awan had not fully explained to the respondent why his anxiety prevented him from taking a phone call but did not prevent him from having an in-person meeting at home. A GP letter, which was sent to Mrs Forde as part of the appeal documents, was specifically about phone calls. It did not say that the claimant could only participate in meetings at his home. It did not say why the claimant's anxiety or insomnia were worsened by a phone call but not by a face to face meeting. It was reasonable for the respondent's decision makers to conclude that there was no explanation for this.
75. Mr Awan also said that the respondent's policies required the respondent to carry out contact during sickness absence only by a method agreed with the claimant. We do not accept that that is what the policy meant. The attendance policy said that regular contact was vital and that the manager and employee should seek to agree appropriate times and dates to review absences. The respondent also had

a guide on maintaining contact which said that employees must maintain contact throughout their absence and that managers and employees should agree a contact plan.

76. That does not mean that an agreed plan cannot change. There might be times when methods of contact might have to be reviewed, especially if someone is off for a long time. In the claimant's case:

76.1. Contact could not be maintained in the same way throughout his period of absence because Mr Basnet was on holiday and on sick leave for some time. It was reasonable of the employer to ask another manager to maintain contact while Mr Basnet was away.

76.2. It was also reasonable for the respondent to require some personal contact over and above emails with the claimant, so that it could understand the reasons for his sickness and consider what could be done to support him. That process would be less effective if there were only email contact with Mr Awan.

77. We are not considering whether there was any alternative at all, we are considering whether the respondent's approach to contact with Mr Awan, while he was on long-term sick leave, and in relation to the formal meetings, was an approach that no reasonable employer would have taken. We do not find that it was.

78. Despite the difficulties contacting Mr Awan, the respondent did its best to consult him. It followed its own procedure in this respect. It allowed Mr Awan more than one chance to attend the informal meetings with Mr Basnet, and to attend the formal meetings with Mr Tilling. There was also an appeal with a different line manager. During those consultations, the claimant did not give the respondent any information from which it could conclude that the claimant might return earlier than the medical advice suggested.

79. Finally, question (d) is whether dismissal was in the range of reasonable responses.

80. Under this heading we also have to decide whether a reasonable employer would have waited longer before deciding to dismiss. Mr Awan had been away for over 14 months at the time of the dismissal and the indications were that he would not be able to return to work until September 2024 at the earliest. The claimant's job could not be filled in the meantime, meaning higher workloads for other staff, or additional costs because of the need to engage agency workers.

81. By the time of the appeal Mr Awan emphasised his wish to return but he was still unable to give any real details about a date by which that would happen or on what basis he could return. Mrs Forde would have been likely to have allowed the appeal if he was able to be specific about a return date in the foreseeable future. She saw this as about a month or two. However, the claimant's suggestion to Mrs Forde at the appeal to 'give him a month' was vague and unspecific.

82. We have concluded that, in these circumstances, and with the information that the respondent had at the time of the decision and the appeal, it was not outside the range of reasonable responses for the employer to decide that it could not wait any longer.
83. We do not find that there was any unreasonable failure to consider alternative roles or changes to duties. The lack of contact with Mr Awan meant that the scope for considering these options was limited. The most that Mr Awan had suggested was at the appeal, when he said that he might be able to return in a month and could maybe do one day a week but he was scared of relapsing. It was open to the respondent to regard these as unspecific assertions and to consider that, in reality, a return to work in the foreseeable future was unlikely.
84. Overall, we have decided that the respondent's approach in these circumstances and the decision to dismiss was well within the range of reasonable responses. The respondent did not take any steps or decisions which no reasonable employer would have taken and, for these reasons, the complaint of unfair dismissal fails.

Disability discrimination

85. Next we explain our decisions about the disability discrimination complaints. These are complaints under the Equality Act 2010.
86. First, we explain two overarching points which relate to all three of the disability discrimination complaints.
- 86.1. The respondent accepts that Mr Awan was disabled at the material times by anxiety. We see that in the case management orders.
- 86.2. We have found that the respondent knew about the claimant's disability from at least February 2023 when it received advice to that effect from its OH advisor.
87. As we have said, there are three complaints of disability discrimination. We are going to explain our reasons for our decision on each of these in a different order to the list of issues; first the reasonable adjustments complaint, then discrimination arising from disability, and then the complaint of disability-related harassment.

Reasonable adjustments

88. We turn first to the reasonable adjustment complaints. This is a complaint under sections 20 and 21 of the Equality Act. Where a feature of an employer's workplace or working arrangements, known as a provision, criterion or practice or a 'PCP', disadvantages an employee because of disability, the employer is under a duty to take steps to avoid or reduce that disadvantage, to the extent that it is reasonable to take that step.

89. Unlike the unfair dismissal complaint where we are focused on the employer's decision, the question of reasonableness in these complaints is an objective one for us to decide ourselves.
90. Mr Awan's complaint of failure to make reasonable adjustments is at paragraph 22 of the list of issues in the case management orders. Mr Awan's complaint is that the respondent applied a PCP, namely a requirement that he must attend work to discuss his absence from work.
91. We accept that this requirement was imposed. Mr Awan was asked to attend meetings with Mr Basnet in October/November 2023 at a Royal Mail location in Slough (although he did not do so). The requirement was also imposed in relation to the two meetings with Mr Tilling in December 2023, both of which were scheduled to take place at HWDC. Mr Tilling told the claimant that he could attend the second meeting at a different work location if he wanted, although the claimant did not make any request for a change of location. For these reasons, we accept that this PCP, a workplace arrangement of requiring attendance at work to discuss absence, was applied to Mr Awan.
92. We also accept that the requirement disadvantaged Mr Awan because of his anxiety. There was no medical evidence about this but we have accepted Mr Awan's evidence that, during the meeting with Mr Basnet at his home, he had to take a break because he felt that he was having a panic attack. We accept his evidence that he would have found this more difficult in a work location. We accept therefore that the requirement to attend a work location disadvantaged Mr Awan because of anxiety more than an employee without that disability.
93. We also accept that the respondent was aware of this disadvantage because of what the claimant said to Mr Basnet at the meeting in July about his anxiety around attending Royal Mail locations.
94. Therefore, the key question for us is whether the respondent failed to make an adjustment which was reasonable to address that disadvantage.
95. The adjustment suggested by Mr Awan was for the respondent to conduct the meetings in his home. We have to consider whether it would have been reasonable, on an objective basis, for the respondent to agree to that adjustment. The burden here is on the respondent to satisfy us that it did not fail to make an adjustment which it would have been reasonable for it to make.
96. The respondent has met that burden. We have decided that it would not have been reasonable to expect the respondent to conduct formal or informal absence management meetings at the claimant's home. Our reasons for reaching this conclusion are:
- 96.1. Meetings were necessary because meaningful contact over and above emails was required to understand the reasons for the absence and to try and support Mr Awan back to work. Some personal contact was necessary and telephone calls were difficult for Mr Awan.

- 96.2. Home visits were outside the respondent's practice and were not operationally viable for Mr Basnet.
- 96.3. There were potential safety concerns with home visits.
- 96.4. Another option was offered, namely meetings at a neutral work location.
- 96.5. OH and the claimant's GP had confirmed that Mr Awan was not fit for work and had advised that there were difficulties with phone calls but had not advised that Mr Awan could not attend a meeting at a work location.
97. Mr Basnet had attended one meeting at the claimant's home in July. He did that because he was doing his best to restart contact with the claimant after a period where contact had been difficult. This was done as an exception and was outside the respondent's practice. Mr Basnet was going above and beyond to reinstate contact with the claimant. That did not mean that it was reasonable to conduct all meetings in that way.
98. We do not find that it would be reasonable to require the respondent to hold absence management meetings at the claimant's home. Therefore, it was not a reasonable adjustment that the respondent failed to make. The complaint fails for that reason.
99. This complaint was also brought against Mr Tilling, the first respondent, and the claim against him fails for the same reasons.

Discrimination arising from disability

100. Next, we explain our reasons for our decision on the complaint of discrimination arising from disability. The legal tests are set out in section 15 of the Equality Act. We have to decide whether the respondent treated the claimant unfavourably because of something arising from disability and, if so, whether that treatment was justified.
101. The claimant's complaint of discrimination arising from disability is set out at paragraphs 23 and 24 of the list of issues. He says that his dismissal was because of disability-related sickness absence. The respondent accepts the dismissal was unfavourable treatment because of the sickness absence, and that the sickness absence was something arising from disability.
102. That means that the burden of proof shifts to the respondent to satisfy us that dismissal in these circumstances was justified. That is a shorthand - by justified, we mean that the treatment has to be a proportionate means of achieving a legitimate aim. Again, that is an objective question for us, not just a question of what the respondent was thinking.
103. The legitimate aim relied on by the respondent was explained in the grounds of resistance and the list of issues. In summary, the respondent says that Royal Mail as a business is dependent on the reliability of its employees because when faced with employees incurring lengthy periods of absence, there is a risk of the business failing to provide a satisfactory service for its customers.

104. We accept that the need to ensure reliability of employees to provide a satisfactory service to customers is a legitimate aim. We have concluded that the respondent's decision to dismiss Mr Awan was a proportionate means of achieving that legitimate aim for the following reasons:

104.1. Mr Awan had been off work for over 14 months at the time of dismissal. There was no prospect of an imminent return. It was likely that he would not be able to return for at least another eight months.

104.2. Mr Awan had not suggested any real changes to his working arrangements that could have allowed him to return. As contact with him was limited, it was difficult for the respondent to fully explore this.

104.3. The claimant's continued absence meant increased workloads for staff or additional costs to engage agency workers. It would not be proportionate to expect the respondent to keep the claimant's role open for a further eight months in the hope that the claimant would then be able to return.

104.4. If the claimant's situation had changed such that he was able to return by the time of the appeal, or within a short time up to two months after it, Mrs Forde would have allowed the appeal.

105. For those reasons, we have concluded that dismissal was a proportionate means of achieving a legitimate aim. Therefore, the complaint of discrimination arising from disability fails.

Disability-related harassment

106. The last of the disability discrimination complaints is a complaint of disability-related harassment. This is a complaint under section 26 of the Equality Act. Harassment complaints under the Equality Act have a number of elements. We have to decide whether there has been unwanted conduct which:

106.1. is related to disability; and

106.2. violates the claimant's dignity or creates an intimidating, hostile, degrading, humiliating, or offensive environment (we use the shorthand of 'creates a hostile environment' for this part of the test).

107. For this second point, unless we find that the person carrying out the conduct did so with the deliberate purpose of violating dignity or creating a hostile environment, we are required to consider both:

107.1. the effect that the treatment had on the claimant, a subjective element, and

107.2. if it did have that effect, whether it was reasonable for it to have done so – an objective element.

108. Like the other complaints of discrimination, the time limit for bringing a complaint of harassment is three months less a day from the date of the conduct complained of.

109. In Mr Awan's case, the harassment complaint is set out at paragraph 21 of the list of issues. It is about his pay being stopped in April to July 2023. It does not include the other occasions when he was told that his pay might be stopped.
110. The relevant dates we are looking at in relation to this complaint are 30 March 2023, when the decision was taken to stop Mr Awan's pay. The decision came into effect on 4 April 2023. The decision to reinstate pay was taken on 11 July 2023 and arrears were paid by the end of that week, by 18 July 2023.
111. The act to which the complaint relates is the decision to stop pay. The date of that act was 30 March 2023. The decision had continuing consequences but it did not establish a continuing course of conduct. The time limit for bringing a complaint in relation to the decision taken on 30 March 2023 expired on 29 June 2023. The claim ought to have been presented by 29 June 2023 but it was not, in fact, presented until 8 May 2024. It was therefore over 10 months late.
112. Even if we accept that there was a continuing state of affairs amounting to conduct extending over the whole period when pay was withheld (which we do not), that state of affairs ended on 18 July 2023, when the claimant's pay was reinstated and arrears were paid. The primary time limit in that case would end on 17 October 2023, because that was three months less a day from the date of the repayment of the arrears. Even on that basis, the claim was presented over six months late.
113. We have a wide discretion to allow complaints of discrimination which are made outside the time limit. The test which we apply is whether it is just and equitable to do so. The following factors are of particular relevance here:
- 113.1. When asked why he had not presented his claim earlier, Mr Awan was not able to provide any answer.
- 113.2. Mr Awan has brought a tribunal claim before this one, and he could be expected to know about the time limits.
114. We decided, for those reasons, that it is not just and equitable to permit the complaint of harassment to proceed when it was submitted at least six months late. It fails for that reason.
115. For completeness we add that, if we had been considering the merits of the claim, we would have decided that the withdrawal of pay did not amount to an act of unlawful disability-related harassment. Mr Awan was, of course, unhappy that his pay was withdrawn but the withdrawal of pay happened primarily because of problems with contact during long-term absence. It was reinstated when contact resumed. We would have concluded that it was not reasonable for that conduct to have the effect of violating dignity or creating a hostile environment.
116. Before reaching the end of our conclusions we stepped back and considered the claim as a whole. We are satisfied that there was no discrimination or harassment related to the claimant's disability and that the respondent's decision to dismiss the claimant was fair and proportionate in the light of the long-term absence and the lack of a return date.

117. In summary, we concluded that none of the claims succeeded.

Approved by:
Employment Judge Hawksworth

Date: 13 August 2026

JUDGMENT SENT TO THE PARTIES ON
13 August 2026

FOR THE TRIBUNAL OFFICE

Notes

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

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

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