



EMPLOYMENT TRIBUNALS

Claimant: JENNIFER NORGATE
Respondent: VEOLIA ES (UK) LIMITED
Heard at: Bristol Civil and Family Justice Centre
On: 1 and 2 July 2026
Before: Employment Judge David C. Gardner

Representation

Claimant: Ms White (counsel)
Respondent: Ms Minto (counsel)

JUDGMENT having been given orally on 2 July 2026 and written reasons having been requested by the Respondent on 9 July 2026, in accordance with Rule 60 of the Employment Tribunals Rules 2024, the following reasons are provided:

REASONS

Introduction

1. This is a claim brought by the Claimant, Jennifer Norgate, alleging that she was unfairly dismissed by the respondent, Veolia ES (UK) Ltd ("Veolia").
2. In the hearing before me Ms Norgate was represented by Ms White of counsel and Veolia was represented by Ms Minto of counsel. I am grateful to them both for their assistance and submissions which have helped me in the decisions I have to make.
3. In considering this claim I have had sight of a bundle of some 560 pages and I have witness statements from Ms Norgate, Andy Pearson (a General Manager of Veolia), and Richard Little (another General Manager of Veolia).

I heard oral evidence from them all I have read and considered all the documents in coming to my decision, but this judgment will only refer to those I consider to be the most relevant to the decisions I have to make.

4. At the start of the hearing I discussed the list of issues for me to consider, which were set out by Employment Judge Kelly and which the parties agreed remain pertinent.
5. At the outset, I should make clear that it is agreed by both parties that Ms Norgate was dismissed on 9 June 2025 and the reason the respondent gave was on the grounds of capability, namely her ill health.
6. I pause here to note that it is agreed that the complaint was brought in time under s.111 ERA 1996 and so there are no jurisdictional bars to the complaint being heard.

Agreed History

7. Much of the background to the case is agreed. Veolia is a company that provides waste, water and energy services. It is a large company and I am informed by Mr Pearson it is comprised of a total of approximately 18,000 staff in the UK and 240,000 worldwide.
8. Ms Norgate was continuously employed by Veolia and its predecessor between 1 May 2017 until she was dismissed on 9 June 2025. Her role at the time of dismissal was a soft services manager, which involved managing the team of cleaners at Airbus Portsmouth. It is not in dispute and I find she was an employee within the definition in s.230 ERA 1996 and as both parties agree she was on 9 June 2025 dismissed with pay in lieu of notice for 3 months, I find that her contract was terminated on that date.
9. The chronology of events is also not substantively in dispute and can be summarized as follows:

Date	Event
1 May 2017	Start of continuous employment
24 Jul 2023	TUPE consultation
1 Sep 2023	TUPE transfer to Veolia
16 Jul 2024	Collective grievance raised against claimant
31 Jul – 5 Aug 2024	Collective grievance investigated in a number of interviews.
6 Sep 2024	Collective grievance not upheld; outcome issued
5 & 9 Sep 2024	Claimant raises grievance concerning process
13 Sep 2024	Grievance hearing
16 Sep 2024	Claimant begins sickness absence for work-related stress, her fit note began on 14 September 2024 but I am reminded that this was a Saturday and thus the first day away from work was 16 September 2024. For completeness, the Claimant did not return to work after this date.
27 Sep 2024	Grievance outcome issued and did not uphold the grievance, save that it was accepted that a different note taker should have been used for the collective grievance meetings. This was because the note taker was from the same team as those raising the grievance. ¹
8 Oct 2024	Grievance appeal lodged
22 Oct 2024	Grievance appeal hearing
4 Nov 2024	1 st Occupational health report
8 Nov 2024	Final grievance appeal outcome, which upheld the grievance outcome.
13 Nov 2024	Welfare meeting
20 Feb 2025	A welfare meeting took place

¹ This was a point rectified as soon as it was pointed out and in my view does not impact the substantive fairness of the procedure. It was not suggested to me that the note taker in anyway improperly influenced the decision.

31 Mar 2025	2 nd Occupational health review
7 Apr 2025	A welfare meeting took place
28 May 2025	3rd occupational health report
9 Jun 2025	Welfare and capability meeting and dismissal
15 Jun 2025	Appeal against dismissal
1 Jul 2025	Dismissal appeal hearing
17 Jul 2025	Dismissal appeal rejected
1 Aug – 11 Sep 2025	ACAS Early Conciliation
16 Oct 2025	ET1 presented
29 Jan 2026	Preliminary hearing; issues identified

10. With that chronology in mind, and before I turn to my findings, I will briefly set out the relevant law.

Legal Framework

11. The capability an employee is a potentially fair reason for their dismissal, per s.98(2)(a) ERA 1996. The burden is on the employer to show that it was because of the potentially fair reason that the employee was dismissed, per s.98(1) ERA 1996, which the employer must prove on the balance of probabilities.
12. If that is done, the tribunal must consider whether dismissal was fair, per s.98(4) ERA 1996. As per s.98(4)(a), when determining whether the dismissal was fair or unfair, I must consider whether in the circumstances (including the size and administrative resources of the employer) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee and shall be determined in accordance with equity and the substantial merits of the case.

13. Given the reason for dismissal in this case asserted was capability, I have considered and applied the well-known guidance in *Spencer v Paragon Wallpapers Ltd* [1976] IRLR 373, *East Lindley District Council v Daubney* [1977] IRLR 181, and *BS v Dundee City Council* [2014] IRLR 131 as to when dismissal for reason of capability can be said to be fair within the meaning of the ERA 1996.
14. In essence, the authorities make it clear that I must consider:
 - a) Whether it was reasonable to expect the employer to wait any longer for the employee to return to work;
 - b) Whether the employer has consulted the employee; and
 - c) Whether the employer has obtained and considered medical advice on the employee's position and prognosis and when a return to work may be likely.
15. I also note the guidance in *McAdie v Royal Bank of Scotland* [2008] ICR 108, which notes that whilst fairness may require the employer to make extra efforts if it is the cause of ill health, the fact that the employer has contributed to or caused ill health does not prevent a fair or reasonable dismissal.
16. Before turning to my findings and the contentious issues in this case, I further pause to note that my role as an Employment Judge is not to decide whether I think the employer's decision was reasonable. My role is to determine whether the employer's decision fell into the band of reasonable response open to the employer (see, for example, *Iceland Frozen Foods v Jones* [1982] IRLR 439).

What was the reason for dismissal?

17. This is the first question I must answer and I can do so quickly. The respondent relies on the reason or principal reason for dismissal of capability and in particular ill-health capability. The Claimant's evidence and submissions have not seriously challenged this as the reason. The decision

of 9 June 2025 was clearly, in my view, taken on that basis and I can see no evidence to suggest otherwise.

18. In truth, this case turns on the reasonableness of that decisions which was the focus of the evidence and submissions before me.

Did the respondent act reasonably or unreasonably in all the circumstances, including the respondent's size and administrative resources, in treating that reason as a sufficient reason to dismiss the claimant?

19. This question will involve a number of different considerations and findings.
20. I start by noting that Veoila is a large, international company. Its resources will stretch further than smaller employers and what is generally considered reasonable for such an employer will be more stringent than for a smaller employer.

Delayed Support

21. As set out in the list of issues, Ms Norgate submits that from August to November 2024, the respondent delayed putting in place a support plan providing support to her to help her cope with the collective grievance against her and it failed to address the toxicity in the claimant's team, which led to/made worse her stress condition. This developed in argument somewhat to a wider point of a lack of support to manage issues with the team generally.
22. I do note and accept the points that Claimant makes that she has in the past informed her employers (both before and after Veolia became the employer) that hers was a difficult team to manage. She raised it in a TUPE consultation meeting on 15 September 2023 with Mr Pearson. I also note that in an email of 14 June 2024, AirBus itself raised issues with morale in the team, suggesting issues existed between Ms Norgate and staff. Despite these issues, it is not clear to me what was done to improve and support the

team before the collective grievance was raised, save for Mr Pearson informed me in evidence that the respondent attempted to resolve problems informally.

23. I also note and accept that there appears to be some initial delay in putting in place support plans which the Claimant gave evidence she requested on 23 August 2024 but it appears was only produced in November 2024.
24. I accept that perhaps more could have been done to support Ms Norgate before she became ill and after the collective grievance. This said, and in line with the decision in *McAdie*, I consider this only requires an employer like Veiola to take more time and care in coming to a decision to dismiss. I do not consider that this will be material in the substantive fairness or reasonableness of the respondent's approach in the circumstances of this case, and particularly in the circumstances I discuss below.

The Occupational Health Reports

25. have considered the 3 occupational health reports, dated 4 November 2024, 31 March 2025, and 28 May 2025 which were also available to the Respondent when taking the decision to dismiss. These were obtained in line with the actions a reasonable employer would take to obtain proper medical advice on the employee's position and prognosis for a return to work.
26. I accept that those reports do make recommendations for continued review by occupational health at periods of 4-6 weeks. That, however, does not necessarily mean that a respondent, acting reasonably, cannot dismiss an employee. Occupational health reports will often recommend further review. Indeed, if an employee is still employed and still not at work due to ill health, they are very likely to do so to continue providing support and guidance to both employee and employer. The key, in my view, is the extent to which those reports suggest that it would be reasonable for the respondent to wait any longer for the Ms Norgate to return to work.

27. I note the reports carry a common theme. None of the reports contain a medical prognosis or recovery time. All of the reports note that it is unlikely that Ms Norgate will be able to return to work until the stress factors in the workplace are dealt with. For example, in the 28 May 2025 report, which is the report immediately prior to dismissal, it is said:

Her symptoms remain significant at present, and they would impact on her ability to carry out her role or any modified duties at this time. I am unable to advise on a return-to-work plan or any adjustments to help facilitate a return to work as I do not anticipate a return to work within the foreseeable future or until her concerns are fully and satisfactorily resolved.

...

Ms Norgate's work-related issues will not have a medical solution, and whilst medical interventions can support symptom management, the prognosis will be highly dependent on the work issues being resolved. Early resolution of the workplace issues will aid recovery and prevent any further deterioration of health.

28. In my view, and I find, it was not unreasonable for the Respondent to consider those reports and come to the conclusion that they give no discernible timeframe for a return. The conclusions that arise, in my view, are that if the workplace cannot be put into a place which Ms Norgate found acceptable to address her anxieties, then there would be no likely return date in any foreseeable or reasonable time.
29. Thus, the question for the employer (and for me) is whether that could and should have reasonably been done.

Consultation

30. Ms Norgate contends that one reason that the dismissal was unfair was due to a lack of meaningful consultation.

31. I have considered the evidence before me and note that the employer did undertake a number of meetings with Ms Norgate after she became ill and was signed off work from 16 September 2024. She was offered and engaged in 4 relevant meetings. They were on 13 November 2024, 20 February 2025, 7 April 2025, and 9 June 2025. In those meetings Mr Pearson discussed her health with Ms Norgate and set out the suggested plans for Ms Norgate to return to work, including through a return to work plan, dated November 2024, which provided for several stages and phased reintroduction to work, including a period where she would not have line management responsibilities.
32. I pause to note I have reviewed that return to work plan and cannot fault its contents. It appears to me an entirely reasonable plan on its face to attempt to support Ms Norgate back to work and it was one on which the Respondent sought Ms Norgate's views.
33. Having considered the oral evidence I have heard and the minutes of the welfare meetings, I do consider the consultation to be a meaningful and reasonable one.
34. I note, for example, that in the meeting of 20 February 2025, Mr Pearson offers to set up mediation with the team and states *"We really do want to support you back in, set some new ground rules, set expectations. You have a lot of experience to bring."*
35. I further note, for example, that in the meeting of 7 April 2025, Mr Pearson noted the availability of the employee assistance programme. Mr Pearson also attempted to reassure Ms Norgate that she would be supported by the management team and the return to work plan to avoid or deal with any further conflicts in the team. He said: *"If you return to work, with the plan, if allegations were made and we felt they were vexatious, we would deal with that and it would be treated seriously. I don't believe you would be unsafe as we would put things in safe to assist you."*
36. In that meeting Mr Pearson also sought to understand what Ms Norgate thought could be done. He said; *"We put it [the return to work plan] together with the best of intentions. If not, so we want a better understanding, can*

you talk us through what you mean, more specifically what you feel still needs to be done in order for us to support you to consider returning to work?”. Ms Norgate’s response was “Until I can get my anxiety under control, it affects my way of thinking. The thought of going back to site, with that team at this moment. I don’t feel in a safe space, I know my team and what they’re like. I don’t know if I can deal with that”.

37. I do not criticise Ms Norgate for her position, but despite the welfare meetings and the return to work plan, she did not feel she could return to the work environment. I entirely understand that position and the stresses that came with her experiences in the workplace and, I accept, the additional stresses linked to bereavements and pay issues. That said, I must also take notice of the fact that the Respondent did, in my view, engage in welfare discussions, provided a plan to help her to return to work, and sought Ms Norgate’s views on those plans. It is clear, in my view, that this was not an unfair or unreasonable consultation. The fact is that despite the Respondent’s best efforts, and entirely understandably, Ms Norgate did not feel she could return to work whilst the work place stresses remained in place.

Evidence of Training

38. A point Ms Norgate raises in her case before me is her complaint that her team were not appropriately dealt with after the collective grievance was raised and then found not to be substantiated as the team had not been spoken to or required to do training.
39. The recommendations arising from the collective grievance were set out by Mr Ogodazi in a letter to one of the complainants, dated 9 June 2024, and include the following:
1. *All members of the cleaning team, including Jenny Northgate, will attend:*
 - *Veolia’s Values Course*
 - *Dignity in the Workplace Training*

○ *Relationship Management Training*

2. *Veolia expects all staff, including management, to adhere to its values, treating each other with dignity and respect. I am reaffirming these standards and will monitor them closely.*

3. *The Contract Manager will continue to be the primary point of contact for any issues that arise. Should employees remain dissatisfied with any decision, they may escalate concerns to the Senior Contracts Manager...*

40. In my view there is a failing on the employer's part immediately after this decision in that the letter which is sent to Ms Norgate, dated 6 September 2024, which informs her the collective grievance was not substantiated, only informed her that she was to undertake training, not the whole team.

41. Her oral evidence is that she was under the impression that no such work was being done. That accords with her impression as she reported in the welfare meeting of 20 February 2025. However, I do note that in that meeting the impression was corrected. In the minutes of the that meeting it is recorded:

AP Thats not true, its not just you its all the team will have to undertake dignity at work training.

42. Ms Norgate was recently bereaved and there was a lot going on and so I can see why that may not have registered with her at the meeting. I also note that the respondent used that meeting to raise overpayment of pay issues, which I would suggest is not best practice, but the employer did make the point that training was to be done.

43. I further note that in the 9 June 2025 meeting, Mr Pearson again refers to the whole team being referred for training. He states:

We highlighted that all team members need Respect training. The whole team will receive that. It is our full intention to do that. Myself and Lisa are doing that ourselves.

44. The minutes of the appeal hearing, dated 1 July 2025, also discussed the fact that the whole team were to be referred for training:

SH: Can I check, were you told that the whole team needed to attend training?

JN: No. I wasn't informed of the team training required, only the training I needed to do. Had I been told that it might have made things feel different

45. Whilst I entirely appreciate that given her levels of anxiety and stress around these meetings, as she informed me in oral evidence, Ms Norgate may not have taken in that it was not just her whom was to be referred for additional training, but it was the whole team, that does not in my view take from the contemporaneous evidence that Ms Norgate was informed in these meetings that such training was to be undertaken.
46. A residual point was made that there is no evidence that such training was in fact delivered. I take the point that there is no documentary evidence of this in the bundle, but Mr Peason has confirmed to me in oral evidence that it has been done. My note of his evidence was that it was carried out last year, by HR colleagues. It was for the team and was conducted on site, not Ms Norgate as she was on still absent. I accept that evidence. I found him to be a truthful witness and it is in line with the described intention to deliver the training in the meeting minutes. It is also in line with Mr Lillie's oral evidence that Mr Peason had informed him that the training had been done.
47. In my view, the Respondent has taken reasonable steps, once it had determined the collective grievance, to put in place training for staff. Again, in my conclusion, this case turns back not to what Ms Norgate was told about what was happening around training, but to whether Ms Norgate

could return to work because she felt the work place stressors had been removed.

The Workplace Stresses

48. As I considered earlier, the occupational health reports come to the same consistent view. That Ms Norgate will be unable to return to work until the work place stressors are removed from the workplace.
49. Ms Norgate said to me in oral evidence that what she considers was needed was a conversation, before any implementation of a return to work plan, to be led by the management team, with her, and with the team, separately and then later together, to deal with what she identified to be the longstanding behavioural issues in the team.
50. I see that that may be the minimum she thinks is required now, but I do observe that consistently over the period of her absence, in all the welfare meetings, her view was that more than a conversation was needed and in fact disciplinary action was needed for the team. That is made out by the minutes in the meetings, for example:

a) In the welfare meeting of 20 February 2025:

- i) *JN I'm still anxious, last night I hardly slept because this meeting was planned and the thought of going over it all again. Scared of coming back to a toxic environment. Has the team been dealt with?*
- ii) *At the moment it doesn't matter what I do myself. If the team is still there, I know them, and this wont go away. I'll be putting myself in a situation where this will happen again. I can't do that.*
- iii) *I don't think it will make any difference. The team is toxic. Whoever comes into the team, they are caught up in it and*

become the same as they are. Until the instigators are dealt with, it won't make a difference. It the lies.

b) In the meeting of 7 April 2025:

i) *Yes, that's correct and also the fact there's no one been reprimanded for the allegations. For the vexatious allegations.*

ii) *you've shared that you don't feel the return to work plan will help and that your position remains that you won't return until we deal with the team, am I understanding that correctly?*

yes

iii) *You've said the return plan won't work, what will work for you?*

I cant have someone following me around to make sure someone won't say anything. I'm disappointed that no one was reprimanded, and I'm the only one who suffered...

c) In the meeting of 9 June 2025

i) *Yes. I think until the team is dealt with it will restrict me from returning to the site.*

Can you explain what you mean?

I'm expecting them to take responsibility for what they said about me. They haven't been reprimanded. Yet I'm the one supposed to undertake training.

- ii) *you've shared that you don't feel the return to work plan will help and that your position remains that you won't return until we deal with the team, am I understanding that correctly?*

Yes

- iii) *AP Can we do anything at all to help you back into the workplace in any capacity.?*

JN Not with that team, no. It makes me anxious even going back.

51. I do accept the point made by the Respondent that if a conversation was all it would have taken back then, then that was offered. Mediation was offered in welfare meetings and was included in the return to work plan. The evidence is that over the 10 month period of her absence, the work place stresses that Ms Norgate identified and were preventing her reaching a state of mind where she felt she could return to work was the lack of disciplinary action against the team.

52. I do note Ms White's point that by eliding the welfare meeting of 20 February 2025 with an accepted to be erroneous discussion about overpayment, the Respondent acted to increase stress and decrease Ms Norgate's ability to engage in a discussion which may support her back to work. It is a fair criticism and I would hope the Respondent will learn that such matters are best separated. It may also lead to the conclusion, per *McAdie*, that such action may require a reasonable employer to give a little more leeway or go the extra mile to support Ms Norgate back to work. However, I do not consider the matter is determinative in favour of the Claimant. The added stresses of pay disputes do not, in my view, overcome the main and ultimate impasse, which as identified in the occupational health reports, was the presence of work place stressors relating to her team.

53. The Respondent made it consistently clear that it was not prepared to take disciplinary action and so it is that an impasse was reached that was insurmountable and certainly did not appear to have any resolution within the foreseeable future. At least, in my view, an employer acting reasonably was entitled to take that view.
54. I would pause here to note that in my view the refusal to take disciplinary action was, based on the evidence I have seen, a decision that a reasonable employer was entitled to make. I have considered the minutes of the interviews of the collective grievance and consider that the employer was entitled to interview all complainants, Ms Norgate, and Gary Orram. I can detect nothing unreasonable or improper in the approach of the investigation.
55. I have also considered the conclusions, in the decision of Mr Ogodazi, which determine that there are learning and training needs for all staff members in the team – that is to say the complainants and Ms Norgate. As I observed yesterday, it is a decision that everyone bore some level of fault and need for learning. That appears to me a conclusion which Mr Ogodazi was reasonably entitled to make and one, importantly, that both attempts to address issues with the team and sets out why disciplinary action is not appropriate.
56. I also detect nothing in the evidence that suggests that the matters which arose out of the collective grievance in any way impacted the decision to dismiss the Claimant on the grounds of ill health.
57. Further, I do not consider the respondent was obliged to separately consider if the allegations were vexatious. It is clear the respondent did not think that they were in the framing of its decision.

No alternatives considered and no vacancies offered

58. I have considered if the Respondent took reasonable steps to identify alternative roles for Ms Norgate. I have come to the view that it did.

59. Firstly, Mr Pearsons' written and oral evidence confirms that he did consider roles within his own portfolio and there were no suitable vacancies available within the wider team. He also confirmed that he reviewed the Veolia UK jobsite, which confirmed that there were no managerial cleaning roles available within a 50-mile radius, or at all.
60. Secondly, I accept the point made by the Respondent that there is evidence that on 4 July 2025, after the decision to dismiss Ms Norgate was taken, Sarah Harrop wrote to Ms Norgate to ask her to consider applying for a different role within Veolia. With that in mind, she sent a link to the current vacancies for her to review.
61. Finally, I do also note that in the welfare meeting with Nicholas Romain on 13 November 2024, Ms Norgate appears to accept that there are unlikely to be suitable alternative roles, as she states; *"JN - It is a small team, there would be no alternative roles"*.

Conclusion

62. In my view, the actions of the Respondent to dismiss the Claimant and the procedure undertaken when doing so were, in the circumstances, the actions of an employer acting reasonably.
63. As will often be the case where a dismissal takes place on the grounds of ill health capability, in my view what we have is a sad situation. I do not intend to level blame for the position the parties have found themselves in. I entirely understand why Ms Norgate did not feel she was able to return to work. The stresses in the workplace clearly acted as an understandable but impassable bar to her return. They should not be minimised. They are, in my view, very real. Equally, in my view, the Respondent did what it could to support Ms Norgate back into the workplace but found itself unable to support her past that bar. As a result, it was, in my view, not obliged to wait any longer.
64. In conclusion, and for those reasons, I find that Ms Norgate's complaint of unfair dismissal is not well founded and will be dismissed.

Case No: 6038291/2025

Approved by
Employment Judge D. C. Gardner

Date: 22 July 2026

JUDGMENT SENT TO THE PARTIES ON
14 August 2026