



EMPLOYMENT TRIBUNALS

Claimant: Mr S Morris

Respondent: Mitchells and Butlers Retail Limited

Heard at: Birmingham Employment Tribunal (by CVP)

On: 12 August 2026

Before: Employment Judge Chivers

Representation

Claimant: In Person

Respondent: Miss Laughton, solicitor

RESERVED JUDGMENT

At the relevant times the claimant was a disabled person as defined by section 6 Equality Act 2010 because of ADHD.

At the relevant times the claimant was not a disabled person as defined by section 6 Equality Act 2010 because of autism.

Purpose and Scope of Preliminary Hearing

1. The purpose of this Public Preliminary Hearing was to determine whether the claimant was a disabled person for the purposes of section 6 Equality Act 2010 by reason of ADHD and autism.
2. The hearing had been listed pursuant to orders made following a Case Management Preliminary Hearing in February 2026.
3. At the hearing, I had witness statements from the claimant and from Madison Dockray, the claimant's partner, and heard oral evidence from both. I also had a Preliminary Hearing bundle of 249 pages. I heard submissions from both parties.

Adjustments

4. I conducted the hearing in line with the adjustments the claimant had identified at the Case Management Preliminary Hearing. At the outset, I

asked the claimant whether he required any further adjustments, and he confirmed that he did not.

Findings of Fact

5. I make findings only on those matters necessary to determine the issues before me at this Preliminary Hearing. I have nevertheless considered all of the evidence and submissions presented by the parties. The omission of any reference to a particular matter should not be taken as indicating that it has not been considered. Nor should anything in these findings be construed as determining, or expressing any view upon, issues that fall for determination at a subsequent hearing. My findings are confined to those necessary to resolve the issues presently before the Tribunal.
6. The relevant period for the purposes of this determination is the period of the claimant's employment, from 14 July 2024 to 29 April 2025.
7. The claimant was diagnosed with ADHD and autism during childhood. The respondent accepts that he has both conditions. The claimant has not taken medication for either condition since around May 2019 and says that he manages their effects through music and exercise, including running and attending the gym. He also has a history of depression but does not rely upon depression as a disability.
8. On 23 June 2020, the University of Derby created a Student Support Plan for the claimant in connection with his undergraduate course in Film and High-End Television Production. The plan was substantially expressed in standardised terms. It nevertheless recorded ADHD, Autistic Spectrum Disorder and depression as reasons for support. It provided for adjustments including advance lecture notes where available, written confirmation of verbal information, further explanation of assessment briefs, extended deadlines in specified circumstances, permission to record lectures, assistance with selecting a group, flexibility in relation to lateness or temporarily leaving lectures, and advance notice of room changes. The document does not record how frequently the claimant used the adjustments or measure the severity of the underlying effects. However, I accept that the claimant was granted extensions for certain assignments pursuant to the plan.
9. On 17 August 2020, a Community Mental Health Nurse completed a Care Cluster Initial Assessment Tool. This refers to various categories and allocates a score in respect of each category. Under "*problems with activities of daily living*", which included basic self-care, eating, washing, dressing, budgeting, transport, shopping and other complex activities, the claimant scored 0, meaning "*no problem*". Under "*cognitive problems*", including memory and understanding, he scored 1, meaning "*minor problem requiring no action*".
10. The assessment was primarily concerned with low mood and other mental health difficulties. It recorded moderately severe difficulties relating to depressed mood, sleep and self-harm, but recorded no problem with activities of daily living and only minor cognitive problems.

11. At or around the time that the claimant joined the respondent's employment, the claimant filled in an Employee Declaration Form. This asked the question

"Do you have any medical condition, either with your physical or mental health, which may in anyway affect your ability to perform your role?"

12. The claimant answered "No". In oral evidence, he said that he had misread the question because he had failed to read the words *"with your physical or mental health"*. His explanation was not that he had concealed or masked the conditions. Indeed, his pleaded case is that he informed employees of the respondent about ADHD and autism at the outset of his employment.

13. The principal evidence relied upon by the claimant is his impact statement. This is a 10-page document which refers to the impact of his conditions under various subheadings:

"Impact on Daily Life" (using subheadings of "Executive Function and Organisation", "Time Management and Routine", "Self-Care and Health Management", "Sensory Sensitivity" and "Emotional Regulation");

"Impact on Employment" (using subheadings "Organisation and Memory", "Reassurance and Communication", "Concentration and Focus", "Task Switching and Pressure" and "Stress and Anxiety")

"Impact on Day-to-Day Activities – Explicit Mapping" (using subheadings "Washing/Dressing/Self Care", "Preparing and Eating Food", "Using Transport/Travelling", "Social Interactions", "Interacting with colleagues/Work Related Communication", "Following Instructions/Completing Tasks", "Using a Computer/Administrative Work" and "Keeping to a Shift Pattern/Routine Work Schedule".

14. The claimant refers to the symptoms of ADHD and autism having been present from childhood prior to the formal diagnosis and the effects *"have been continuous since that time and were present throughout the entirety"* of his employment with the respondent. Whilst the statement identifies a broad range of day-to-day activities said to be affected, much of its content is expressed in very general and formulaic terms. The statement contains few specific examples. The claimant said that he had used artificial intelligence to *"tighten up"* his original statement. I do not treat that fact, in itself, as making the statement unreliable or as diminishing its status as evidence. The relevant consideration is that much of the statement lacked information about the frequency, severity, duration and practical consequences of the effects of his conditions.

15. The more specific examples given by the claimant concerning normal day-to-day activities were as follows:

15.1 the claimant misplaced site keys, including the main-door, office and EPOS till keys, on a near-daily basis. The till key fob was replaced more than 30 times and, on one occasion, site keys were recovered only after approximately two hours of searching. Ms Dockray, whose relationship with the claimant began in November

2021, described helping him establish routines for putting important possessions in designated places. In their present home, the house keys are kept in a key safe near the front door.

- 15.2 when his ADHD symptoms were more pronounced, the claimant skipped meals or relied on convenience food.
 - 15.3 the claimant struggled to maintain personal-care routines, including showering and dental hygiene. He said that he sometimes went for several days without showering and required reminders from Ms Dockray which sometimes resulted in him showering. He also described an untreated dental infection and abscess which he said continued for four to five years.
 - 15.4 The claimant “*routinely*” sought repeated reassurance from his line manager before responding to reviews, emails or complaints because he was concerned that his communications might appear blunt or inappropriate. The claimant said that he would “*bombard*” his line manager with such requests and that this made him “*feel awful*”.
16. Following the termination of his employment with the respondent, the claimant worked for Virgin Media. From June 2026, he has been employed as a Duty Manager at Premier Inn. The claimant has worked for Whitbread previously and so is more familiar with their systems. His duties include attending work punctually, taking orders from guests during breakfast and evening service, and running the shift when his manager is absent. He referred to making more mistakes in the role than others and needing his managers to sit with him and go through matters with him.

Law

17. The claimant bears the burden of proving, on the balance of probabilities, that he was disabled at the relevant time. The relevant time is the period during which the acts complained of occurred: *McDougall v Richmond Adult Community College* [2008] ICR 431.
18. The issue to be decided is whether or not the claimant is disabled within the meaning of section 6 and Schedule 1 of the Equality Act 2010 (the “EqA”). Section 6 provides:
- “A person (P) has a disability if*
- (a) P has a physical or mental impairment, and*
 - (b) the impairment has a substantial and long-term adverse effect on P’s ability to carry out normal day-to-day activities.*
19. A substantial adverse effect is one which is “*more than minor or trivial*” (section 212 EqA), and a long-term effect is one that has lasted or is likely to last for at least 12 months or is likely to last for the rest of the person’s life (Schedule 1 paragraph 2(1) EqA).

20. In *Goodwin v The Patent Office* [1999] IRLR 7, at paragraphs 26-29, it was held that there are four key questions that need to be asked:

20.1 Did the claimant have a mental or physical impairment?

20.2 Did that impairment affect his ability to carry out normal day-to-day activities?

20.3 Was the adverse effect substantial?

20.4 Was the substantial adverse effect long-term?

21. The first question is not in dispute. The issues are the existence and extent of an adverse effect, whether any such effect was substantial, and whether it was long-term.

22. I have had regard to the *“Disability: Equality Act 2010 - Guidance on matters to be taken into account in determining questions relating to the definition of disability”* (the “Guidance”) and the Equality and Human Rights Commission (EHRC) Employment Statutory Code of Practice (the “Code”) and specifically Appendix 1. The meaning of *“normal day-to-day activities”* is not set out in statute, but helpful guidance is included in both the Guidance and the Code.

23. Paragraph B4 of the Guidance explains that effects upon different activities must be considered cumulatively. An impairment may not have a substantial adverse effect upon one activity in isolation, but its effects upon several activities, taken together, may amount to a substantial adverse effect.

24. Paragraph B6 addresses the position where a person has more than one impairment. The combined effects of those impairments must be considered where appropriate.

25. Paragraph B7 addresses coping and avoidance strategies. The Tribunal must consider how far the person can reasonably be expected to modify their behaviour to prevent or reduce the effects of the impairment. A coping strategy may reduce the adverse effect so that it is no longer substantial, but in other cases a substantial effect remains despite the strategy. The Tribunal should also consider what happens when the strategy is unavailable or breaks down.

26. In the case of *Stedman v Haven Leisure Ltd* [2025] EAT 82, Stout J reminded Tribunals, when considering whether there was a substantial adverse effect on normal day-to-day activities, to keep in mind:

“(i) that the comparison required by the statute is between the claimant’s abilities as they are with the impairment and as they would hypothetically be without the impairment; (ii) that it suffices if the claimant experiences a substantial adverse effect on ability to carry out just one day-to-day activity; and (iii) it is not permissible to weigh up a claimant’s ability to carry out one day-to-day activity against another day-to-day activity in order to arrive at some overall assessment of ability to carry out day-to-day activities generally.” (paragraph 67)

“Where a Tribunal has before it evidence of a clinical diagnosis of autism

or ADHD, accordingly, then (unless there is some reason to doubt the reliability of that clinical judgment), the Tribunal must take that diagnosis into account not just as evidence that someone has a condition or impairment, but as evidence as to the impact of that impairment. The diagnosis means they have been judged by a clinician to have significant (i.e. clinically 'more than minor or trivial') difficulties with the areas of functioning covered by the diagnosis." (paragraph 60)

27. I have had regard to the Equal Treatment Bench Book for general background concerning ADHD and autism. I have not assumed that the claimant experienced a particular symptom merely because it may be commonly associated with either condition. My findings depend upon the evidence concerning the claimant.
28. In submissions, Miss Laughney referred to *Mutombo-Mpania v Angard Staffing Solutions (UKEATS/0002/18/JW)* which I have considered. This was a case where the claimant had failed to lead evidence of what particular day-to-day activities would be affected by his condition and the Tribunal was found to have correctly concluded that he had failed to discharge the burden of proof on him.

Discussion and Conclusion

29. The burden remains upon the claimant to establish, on the balance of probabilities, that the adverse effects upon which he relies arose from ADHD, autism, or their combined effects.
30. There is limited documentary evidence in the bundle which was created during the material period. The Employee Declaration Form was completed at or around the commencement of the claimant's employment. The claimant answered "No" to the question whether he had any medical condition, either with his physical or mental health, which might in any way affect his ability to perform the role. The claimant explained that he had misread the question because he had not read the words "*physical or mental health*". I did not find that explanation persuasive. Omitting those words would still have left a straightforward question asking whether he had any medical condition which might affect his performance of the role. The claimant did not say that he misunderstood the meaning of the question, that he was reluctant to disclose his conditions, or that he answered "No" because he was masking them. However, I recognise that the claimant's own assessment of whether he could perform the role is not determinative of whether he was disabled, and that an ability to perform a role is not inconsistent with disability. I nevertheless regard his contemporaneous answer as relevant evidence when assessing the existence and extent of the adverse effects now alleged. I have weighed that answer against the more specific evidence concerning the work keys. For the reasons given below, I accept the latter evidence notwithstanding the declaration.
31. The other documentary evidence pre-dates employment by several years, and I have had regard to this.

32. The University Plan is contemporaneous evidence of difficulties recognised in 2020. Although it does not record how frequently the claimant used those adjustments or measure the severity of their effects, the plan therefore assists principally as evidence of the existence and duration of some difficulties in 2020, rather than determining whether their effects were substantial during the material period. I accept that the claimant did submit assignments by extended deadlines granted pursuant to these arrangements.
33. The August 2020 mental-health assessment was conducted for a different clinical purpose and did not address the Equality Act test. It recorded significant difficulties relating to depression, low mood and sleep, but recorded no problem with activities of daily living and only minor cognitive difficulties requiring no action. I take that evidence into account when assessing the claimant's functioning at that time and whether particular difficulties arose from ADHD or autism, rather than depression. I do not treat the assessment as determinative of his functioning during the later material period.
34. The claimant's impact statement identifies a broad range of day-to-day activities that are said to be affected. However, much of it is expressed in general and formulaic terms. I recognise the claimant is unrepresented and unfamiliar with the Tribunal process. Nevertheless, the Orders issued at the Case Management Preliminary Hearing in February 2026 explained the information required and directed him to give clear examples, preferably from the relevant period. Despite that opportunity, the impact statement contained limited detail about when many of the asserted difficulties occurred, how frequently they occurred, their severity and their practical consequences. The List of Issues refers at paragraph 5.1.1 to the claimant's hands shaking or stiffening, his head going back and his shoulders rising as effects of autism. Those matters are not referred to in his impact statement. Paragraph 4.3.1 of the List of Issues states that ADHD and autism made him less able to cope with an untidy, messy, uncarpeted or poorly painted environment. The impact statement does not explain that alleged effect. I therefore had insufficient evidence to make findings about those particular matters.
35. The day-to-day activities about which the claimant did provide more specific information concerned (i) repeatedly misplacing essential keys, (ii) sometimes skipping meals or relying upon convenience food, (iii) maintaining personal-care routines and obtaining dental treatment, and (iv) seeking reassurance before responding to emails or complaints. I have considered these in turn.
36. The claimant gave evidence that he misplaced site, office and EPOS keys on a near-daily basis and that a key fob was replaced more than 30 times. On one occasion, site keys were missing for approximately two hours and a locksmith was nearly called. I accept this evidence. Taken as a recurring pattern, rather than as a series of isolated incidents, I am satisfied that the effect upon his ability to organise and safeguard important items went beyond occasional ordinary forgetfulness and was more than minor or trivial.

37. Ms Dockray gave evidence that the claimant now places his house keys in a key safe in a designated location. That domestic system was not in place for the work keys during the material period. There was insufficient evidence about how the work keys were used and stored for me to conclude that this same arrangement could readily have been replicated at work. I do not therefore treat the present effectiveness of the domestic system as retrospectively removing the substantial effect which existed during the material period.
38. As to food, the claimant said that he sometimes skipped meals or relied upon convenience food when his ADHD symptoms were more pronounced. The evidence did not establish how frequently he missed meals during the material period, the periods over which this occurred, whether he required assistance, or what consequences resulted. Further, the evidence did not enable me reliably to determine whether any missed meals arose from ADHD rather than depression, low mood or other circumstances. I am therefore not satisfied that the Claimant established, on the balance of probabilities, an adverse effect in this area attributable to either of the impairments relied upon.
39. As to showering, the claimant and Ms Dockray gave evidence that the claimant sometimes required reminders to shower and that reminders did not invariably result in him doing so. I accept that the claimant experienced some difficulty initiating and maintaining a routine of personal care. However, the evidence did not enable me reliably to determine whether this difficulty arose from ADHD or autism rather than depression or low mood. In any event, the evidence did not establish with sufficient clarity how frequently it occurred during the material period, how long the periods without showering lasted or what practical consequences resulted. I am not satisfied that the claimant established a substantial adverse effect in this area attributable to either of the impairments relied upon.
40. The claimant also said that he failed to obtain treatment for a dental infection or abscess for four or five years. However, there was no supporting dental evidence and limited detail about when the condition began or when treatment was eventually obtained. In particular, I was unable to determine whether the delay arose from ADHD or autism rather than depression, anxiety, fear of dental treatment or some other cause. I am therefore not satisfied that this example established an adverse effect attributable to either of the impairments relied upon.
41. As to reassurance in communications, I accept that the claimant sometimes sought reassurance from his line manager before responding to emails or complaints because he was concerned that his communications might appear blunt or inappropriate. I accept that this difficulty was attributable to autism and was broadly consistent with the communication and information-processing support reflected in the University Support Plan. However, the evidence did not establish how often he sought reassurance, whether he was unable to respond without it, the additional time involved, or any material consequences for his ability to communicate. I therefore accept an autism-related adverse effect in this area, but I am not satisfied that it was substantial.

42. There is no medical opinion expressly attributing the claimant's repeated misplacement of keys to ADHD. I have had regard to the Equal Treatment Bench Book for general background concerning ADHD, but I have not treated it as evidence that the claimant necessarily experienced every symptom commonly associated with the condition. The claimant has an accepted clinical diagnosis of ADHD. I have accepted his evidence concerning the nature and frequency of the incidents involving keys. Repeated difficulty remembering where important items have been placed is consistent with the difficulties in attention, working memory, organisation and executive functioning associated with ADHD. Taking account of the accepted diagnosis, the persistent pattern of incidents, the claimant's account and Ms Dockray's evidence concerning the longer-standing need for designated places for important possessions, I am satisfied on the balance of probabilities that the difficulty arose from ADHD.
43. I am also satisfied that the substantial adverse effect was long-term. The problem was not confined to isolated incidents during the claimant's employment with the respondent. Ms Dockray, whose relationship with the claimant began in November 2021, described a longer-standing difficulty keeping track of important possessions and the need to establish routines and designated locations for them. That difficulty therefore existed before the material period and continued afterwards. The fact that the claimant now manages his house keys through the use of a key safe does not mean that the underlying difficulty has ceased. Rather, it demonstrates that the difficulty is now managed in that setting through a coping strategy. I find that the substantial adverse effect had lasted, or was likely to last, for at least 12 months.
44. I have considered the effects of ADHD and autism both separately and together. I find that ADHD, by itself, had a substantial and long-term adverse effect upon the claimant's ability to remember, organise and safeguard important items. The claimant was therefore disabled by reason of ADHD.
45. I accept that the claimant also has autism and that he experienced the limited adverse effect upon communication and social understanding identified above. However, the evidence did not establish that this effect was substantial when considered separately. I have also considered it together with the effects of ADHD. The evidence did not establish that the autism-related effect materially added to the substantial adverse effect which I have found. The qualifying substantial adverse effect was attributable to ADHD.
46. I therefore determine that the claimant was a disabled person by reason of ADHD. Although he has autism, the evidence did not establish that autism independently gave rise to a substantial adverse effect or materially contributed to the substantial adverse effect upon which my finding of disability is based .

Approved by:

Employment Judge Chivers

16 August 2026

Notes

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