



EMPLOYMENT TRIBUNALS

Claimant: Ms H Elias-Jones

Respondent: City College Plymouth

Heard at: Exeter **On:** 8-12 June 2026

Before: Employment Judge Employment Judge Smail
Mrs V. Blake
Ms R. Clarke

Representation

Claimant: Mr L. Coates (Lay Rep)

Respondent: Mr A. MacPhail (Counsel)

JUDGMENT having been sent to the parties and written reasons having been requested the following reasons are provided:

REASONS

1. By a claim form dated 25 October 2024, the Claimant claimed unfair dismissal and disability discrimination.
2. The Claimant was employed as a Performing Arts Lecturer between 30 August 2011 and 2 July 2024 when a twelve-week period of notice given on 11 April 2024 expired. The unfair dismissal claim was dismissed for time limit reasons in a Judgment made by Employment Judge O'Rourke on 27 November 2025.
3. At the same hearing it was adjudged, first, that time would be extended to permit the Claimant to bring her claims of disability discrimination and, secondly, that the Claimant was a disabled person at all material times owing to her condition of PTSD. Knowledge of PTSD is not in dispute by reason of Employment Judge O'Rourke's Judgment. There are no time limit issues before us.

Issues

4. These have been considerably and helpfully refined prior to the hearing and before us.
5. Section 15 of the Equality Act 2010 discrimination arising from disability.
The only issue is whether the dismissal, which is accepted to amount to unfavourable treatment, was a proportionate means of achieving a legitimate aim, and within that we are clear that the issue is whether it was proportionate at the latest on 11 April 2024 to dismiss the claimant.
6. We agree with the Respondent that legitimate aim is established by them uncontroversially. The legitimate aim was operating a sickness absence policy which supports employees to return to work within a reasonable time-frame and manages long-term absence and resourcing and staffing levels in a reasonable manner. The issue, in reality, was whether it was proportionate to dismiss at that time or whether the Respondent had to wait further in order to see if it could facilitate redeployment later.
7. Sensibly, the indirect discrimination claim is not being pursued.
8. Section 20 of the Equality Act 2010 failure to make reasonable adjustments.
The PCP relied upon is the requirement to undertake student facing work as part of the claimant's job description. It is the Claimant's case for the reasonable adjustments claim that she could not perform student facing work. Her case is that redeploying her into a non-student facing role in accordance with the occupational health recommendations was the reasonable adjustment relied upon. Was it reasonable therefore for the Respondent to redeploy her in that manner and if so when did the Respondent fail to take those reasonable steps?
9. Section 27 of the Equality Act 2010 - victimisation.
Was the Claimant dismissed by letter dated 11 April 2024 because in a meeting on 28 March 2024 with Amy Edwards and Yvonne Saxon the Claimant stated that she had been discriminated against and was going to take legal action as she felt that the discrimination she had been experiencing was disgusting. It is accepted that there was a protected act, the question is whether that protected act had any causal effect on the dismissal.

The Law

10. The issues reflect the applicable statutory law. The relevant provisions are:

Discrimination arising from disability is provided for under Section 15 of the Equality Act 2010. That provides at subsection (1) -

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.

The duty to make reasonable adjustments is set out in sections 20 – 21 of the Equality Act 2010, and in Schedule 8. Section 21 establishes that a failure to comply with the first, second or third requirement is a failure to comply with a duty to make reasonable adjustments. Section 20 sets out the requirements. Under s. 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.

Victimisation is provided for by section 27 of the Equality Act 2010.

(1) A person (A) victimises another person (B) if A subjects B to a detriment because—

- (a) B does a protected act, or
- (b) A believes that B has done, or may do, a protected act.

(2) Each of the following is a protected act—

- (a) bringing proceedings under this Act;
- (b) giving evidence or information in connection with proceedings under this Act;
- (c) doing any other thing for the purposes of or in connection with this Act;
- (d) making an allegation (whether or not express) that A or another person has contravened this Act.

Burden of proof under the Equality Act 2010 is covered by section 136. In effect, once the Claimant establishes a prima facie case of discrimination, the burden transfers to the employer to show that discrimination has played no role in its decision-making whatsoever. If the employer does not discharge that burden, the Tribunal must find discrimination.

Findings of Fact on the Issues

11. The Claimant began a secondment to the post of Lecturer CPD and coach with effect from 3 January 2023. The secondment was due to end on 31 March 2025. At the end of the secondment, it was envisaged that she would return to her contractual role of Lecturer of Performing Arts. This secondment was attractive and advantageous to the Claimant, she had had extensive periods of absence in 2022. The Claimant applied for this secondment upon the suggestion of her then line manager, Sam Pomeroy, who attended as a witness in this case.
12. The Claimant had been previously struggling with her substantive role and had had extensive periods of absence. The struggles related to her PTSD and it was against that background that this secondment was thought to be

a good idea. The role was not lecturing within the curriculum nor learner-facing to the same degree as her substantive post.

13. Regrettably, and quite early into it, the secondment was terminated by the Respondent with effect from the end of the academic year (July), the reason was that the nature of the role was going to change. The previous role had been working with Maths and English teachers to secure student engagement and participation. It was going to change to involve working with and teaching maths teachers how to get pupils through resits of GCSE Maths. It was decided by the Respondent that the Claimant was not suitable for the role. She did not have the maths teaching experience nor the maths competency level. She has a GCSE grade C in Maths; that was not the level of maths required for this role. This role involved teaching the teachers and the national contract the college had required them to teach, for example, Manchester maths teachers how to get students in Manchester to pass resits in maths.
14. The Claimant has not as a matter of fact and law brought a claim challenging that decision. On occasions she has manifested a belief that she had, and parts of her witness statement are consistent with that assumption, but she did not bring a claim at the relevant time in the relevant terms to challenge that decision. Had she done so in our judgement the Respondent would have justified the decision to shorten the secondment because the Claimant had neither the maths teaching experience nor the level of maths competence. The Claimant appealed the decision internally, unsuccessfully, she did not bring a claim to the Employment Tribunal in respect of it. It was a shame that her secondment was terminated but the reasons for it are clear and they are not discriminatory.
15. The meeting in which she was informed she would lose the secondment was on 3 May 2023. At this meeting the Claimant said she could not return to her substantive role as a Lecturer of Performing Arts. It is the Claimant's position from this point onwards that she could not return to her substantive role. Therefore, the issue is whether from 3 May 2023, redeployment was possible.
16. Mr Fanshawe stated on 3 May 2023 that he would look at what else might be available. On 11 May 2023, Mr Fanshawe mentioned three jobs. Firstly, LTI coach roles that's learning and teaching roles 80% coaching and 20% teaching. Secondly, full time teaching available in the Maths department. Thirdly, a Multiply Coordinator role available in Maths which involved delivering maths to adult learners. It is common ground between the Claimant and the Respondent that none of these were suitable. Importantly at this point the Claimant was asking for voluntary redundancy as she could not return to delivering the curriculum. It was, as she put it, 'literally killing her'.
17. The Maths and English CPD Coordinator role was advertised on 24 June 2023. We agree with the Respondent that this role was not suitable. It was a leadership role in the delivery of working with Maths and English teachers to get pupils through resits in maths and English. The Claimant had neither the teaching experience nor the relevant level of maths or English. The job involved teaching the teachers. The Claimant went off sick on 8 June 2023; she was signed off work for the rest of her employment.

18. On 30 August 2023, Mr Manning asked her to return to her substantive role as soon as she was well enough to do so. The appeal outcome confirming the termination of secondment was 11 September 2023. There was a referral to Occupational Health which reported on 15 November 2023. In answer to the question was there anything the college could do to facilitate the Claimant's return to work, Occupational Health reported "based on the medical and occupational updates, it is advised the employer offers medical redeployment to a non-teaching and non-learner facing role if available in the organisation". Occupational Health further observed if a suitable role is identified, a return to work plan can be requested from them, and the Respondent was asked to complete a stress risk assessment to ensure that any alternative role will mitigate the impact of stress or pressure on her underlying long-term mental health condition as low as possible. It has been Mr Coates' case that these steps should have been undertaken prior to the identification of any potential redeployment job.
19. The Respondent, in contrast, has said a potential job has to be found first. The Claimant, they say, has got to express an interest and willingness to perform the redeployment job, then those steps recommended by Occupational Health will be taken. It seems to us the Respondent is right. You need to identify the job first. The Claimant needs to express an interest and willingness to perform that role then one looks at adjustments to that role. The primary adjustment we are looking at, of course, is finding the redeployment role. Once this is done there can be further adjustments to that role.
20. Amy Edwards was appointed by Mr Manning to manage the Claimant's ongoing absence. There was a meeting on 10 January 2024. We will refer to some of the minutes of this meeting and other meetings. Amy asked the Claimant for her views on the recommendations from the OH report to redeploy her to a non-learner facing role subject to a suitable role being available and risk assess. The Claimant replied but she did not know what roles might be available and highlighted that she was not sure that she was mentally well enough to come back to work. She also expressed concerns about what would happen with her pay after a year absent, as no one had explained that to her. The meeting was adjourned because the Claimant became stressed.
21. Ms Edwards had identified a digital learning technologist role that might be of interest to the Claimant. She said that over the Christmas break she would explore other learning and teaching and digital learning roles.
22. The details of the digital learning and technology role would be emailed to the Claimant. The Claimant mentioned voluntary redundancy saying she had raised it previously but had not had an answer. Voluntary redundancy had first been mentioned by her on 11 May 2023 with Mr Fanshawe.
23. It was now 10 January 2024. Ms Edwards did make it clear that if the attempts to find alternative employment were not successful then the contract would be terminated. Ms Edwards said that another meeting would be arranged to look at alternative opportunities.

24. There was a meeting on 24 January 2024. Ms Edwards reported back that voluntary redundancy was not an option for the Claimant because the substantive role was not in fact redundant. It was there to be performed.
25. Ms Edwards did make reference to the college recruitment website. She said that apart from the roles advertised on the site there were not any other non-learner facing roles arising in the future. Ms Edwards asked the Claimant about the general administrative support role she had emailed to her. The Claimant said she had not yet had the opportunity to look at it, the Claimant said she did not feel able to apply for any roles at that moment. It is right that the college's vacancies are listed on its recruitment website. It was open to the Claimant, if she wanted to look at what was available, and to express an interest. Fundamentally however, she had said she was not well enough to do so.
26. The Claimant replied that she was not well enough to do her substantive role. Ms Edwards asked the Claimant if she was well enough to do the admin role or any other roles and the Claimant at that point said she did not know. It was repeated that if no roles were found then the substantive employment would be terminated. It seems to us that this is self-evident at least at some point. The Claimant came back on the general administrative role on 5 February 2024 by email. The salary we understand was £22,000 – £23,000 per annum. The Claimant wrote that after reading the job specification she chose not to apply as the pay was too low for her to afford to live. She was currently on about £28,000 per annum. A job would have to be of a similar salary, was the effect of the email.
27. Ten days later the Claimant noted that there were six new programme manager job roles which she had not been alerted to. Ms Edwards came back on 19 February detailing those roles as follows:
- 'The job role for all contracts would be student-facing. They will not be teaching unless cover is required but will be meeting students on a regular basis. The job roles are part-time. We have 3 x 4.14 hour contracts and 1 x 2.16. I know you turned down the other job due to pay so I wanted to be explicit on this being part-time. You would be the line manager for both people and course if you were to have one of the 4.14 hour contracts. If you were to have the smaller contract of 2.16 then you would be working with all staff in MPA English and Maths and all MPA students taking English and Maths.'
- Having provided details Ms Edwards followed up on 22 February asking whether the Claimant was interested in any of those roles, the deadline being 27 February. The Claimant did not apply for those roles.
28. On 4 March 2024, the Claimant was sent an agenda for the next sickness absence meeting which was to take place on 12 March. The Occupational Health report was again attached. It had been discussed on 25 January. It was going to be discussed again on 12 March. The letter noted some important points that would be discussed on 12 March.
- (1) First the medical advice had been that you will not be fit to return to a learner facing role and therefore cannot return to your current role

- (2) You were provided with details of an administrative role, however, you did not feel that the pay for the role would be suitable for you.
 - (3) You expressed an interest in the programme manager role. However, details were confirmed to you. This role has some learner facing duties and is part-time. Having not established a response to the email confirming this, we believe that you do not wish us to establish occupational health advice on the suitability for this role for you.
 - (4) On the agenda for 12 March meeting was whether we have to terminate your employment because of you ill health.
 - (5) If we did terminate your employment, you may be eligible for ill health retirement subject to the rules of the scheme and application process.
29. On 12 March 2024, Ms Edwards asked whether the Occupational Health medical advice was still accurate. The Claimant replied that it was. The Claimant was not saying there was a change of circumstance. Ms Edwards recorded the fact that the admin vacancy was not pursued because the pay was not right.
30. The Claimant confirmed that she had applied for no roles because she was not well enough. Again, she was warned that termination of employment might follow, this was having an effect on the Claimant. The Claimant stated how exhausting she was finding the situation and just wanted to hand everything over to her solicitor as she felt so disappointed and angry about how she had been treated.
31. Ms Edwards on her own initiative decided to have a further meeting to try and find an alternative role. It seems to us she was doing her best to help the Claimant find a role if a role was identified, Ms Edwards was going to assist in the process of the application. She arranged by email 26 March a further meeting on 28 March. Ms Edwards wrote
- “It is important that we ensure we have fully considered any alternatives to termination of employment and therefore I would like to further clarify on the suitability of any current vacancies at the college and your thoughts on any reasonable adjustments either in relation to a role or interview process for a role.”
32. A meeting then took place on 28 March 2024, the validity of the Occupational Health report's observations was confirmed by the Claimant, she would not maintain there had been a change of circumstance. She was of course still signed off. The Claimant maintained the position that she was not well enough to apply for any role.
33. The HR support floated the possibility of ring-fencing any vacant jobs to the Claimant without full application process. That was a significant development. What was being floated there was, find the job, and it may be they did not have to go through an application process. No doubt that was a product of advice from an HR specialist of what reasonable adjustments might look like, but the Claimant confirmed that she would not be well enough.

34. The Claimant expressed the view that there was lack of empathy at the college about mental health. She had been asking for help for five years but was now facing being required to meet a timescale for being fired. She maintained that she could not get a job because the college made her too ill and described her experience as a shitshow.
35. She made reference to a case where apparently the Respondent had been found liable for discrimination.
36. There was then a final meeting on 9 April 2024, conducted by Ms Edwards. The Claimant had been absent from 8 June 2023. There had been no improvement in her situation. The occupational Health position was still no learner facing role. The Claimant agreed with that advice. There had been some attempts to find alternative roles, but the Claimant maintained she was not well enough. Therefore, a decision had been made to terminate the contract. Twelve weeks notice was given which would end on 2 July 2024.
37. There was an appeal, but that appeal was not promising in terms of a reinstatement with view to finding further attempts of redeployment. The Claimant indeed was expressly not asking for that. The Claimant's view was that her trust and confidence in the Respondent had gone and the only solution was a settlement. There had been an interest expressed by the Claimant both in terms of voluntary redundancy and financial compromise settlement. For reasons which may be entirely valid for her, she was more interested in a negotiated or financial exit than she was in finding actual redeployment. The appeal was unsuccessful.
38. As to the timing of the dismissal: the Claimant had been off continuously for ten months signed off sick. No indication of a return to work; no job identified for redeployment; a variety of jobs had been raised by the Respondent none of which the Claimant was either well enough to, or inclined to, apply for. She had access throughout to the Respondent's vacancies website. We find it was proportionate at that stage to terminate the contract. No alternative job had been identified as suitable for the Claimant and more to the point there was no enthusiasm from the Claimant to perform any redeployment possibility. Instead, the Claimant was maintaining she was too unwell. This was not a period of absence which had no precedent. At least in 2022 the Claimant was off work for extended periods.
39. The Claimant could not perform her contractual role therefore to stay employed by the Respondent there needed to be redeployment to another role and the Claimant had to be well enough and wanting to perform that role. There would still need to be trust and confidence on both sides and capability to do it. The Claimant said she was too unwell and the truth of the matter is that she had not really expressed an interest in any other role.

Position at this hearing on alternative roles

40. For the first time in the history of this matter, and not just the Tribunal proceedings, some vacancies were identified by the Claimant on the first morning of the hearing in relation to which, she submitted, the Respondent should have raised those jobs with her before the dismissal. Whether she would have been well enough to pursue any of those jobs seems unlikely given her overall position, but nonetheless we adjourned for the day so that

the Respondent could take instructions and provide full disclosure - job adverts and job descriptions - in respect of those jobs so that Ms Edwards could be cross-examined. The Claimant had listed thirty-seven jobs which had been advertised over that period, five were submitted for cross-examination in other words were floated as having been appropriate for the Respondent to have raised with the Claimant. Ms Edwards has provided a witness statement setting out her views on the five vacancies.

- (1) Careers Advisor advertised on 3 March 2024. It required a level 4 Diploma in careers advising which the Claimant did not have but Ms Edwards observes that the role involved direct interaction with students including the provision of guidance, support and careers advice. In her view the role remained substantially student facing. It was therefore inconsistent with the Occupational Health recommendation that the Claimant be redeployed from learner facing roles. The salary was also lower than the Claimant's existing salary.
- (2) College Information Advisor. The vacancy was advertised on 28 March 2024. The College Information Advisor role involved direct engagement with students and prospective students and provision of information and guidance regarding educational opportunities. Whilst not a teaching role, it remained a substantially student facing role. It was not compatible with the Occupational Health advice, the role was also paid at a significantly lower level than the Claimant's existing salary.
- (3) Senior Employee Relations Administrator advertised on 1 April 2024. This role sat within the People Management Team and involved employee relation support, formal HR processes and supporting managers across the college. Whilst the role was not a teaching role it was not entirely detached from interaction with students, parents and other stakeholders within the college community. The role formed part of the people management function within a further education college and required communication with a range of internal and external stakeholders depending on the issues being managed. The role also required specialist employee relations and HR related knowledge and experience which was materially different from the Claimant's background and experience as a lecturer. The advertised salary range was lower than the claimant's existing salary. It was further observed by Ms Edwards by this stage the Claimant's position was she did not consider herself fit to apply or undertake alternative roles. All of those observations it seems to the Tribunal are fair enough.
- (4) People Management Administrator. This role involved HR Administration, recruitment administration, Occupational Health administration and general people management support. Whilst not a teaching role it was not a role entirely removed from interaction with students, parents and other stakeholders within the college community. The role required communication with a range of internal and external parties as part of the people management function. The role also represented a substantial departure from the Claimant's professional background and experience as a lecturer. The advertised salary was approximately £22,000 per annum significantly lower than the Claimant's salary of £29,700. Given the Claimant's previously expressed concerns regarding lower paid

administrative roles, Ms Edwards considered that this not to be a realistic redeployment opportunity. Those observations are reasonable observations.

(5) Work Placement Coordinator. This role involved direct interaction with students, supporting students into placements and liaising with students, parents and employers and placement providers. It was therefore a substantially student facing role. In light of the Occupational Health advice, she did not consider it to be a suitable redeployment opportunity.

41. At the time Ms Edwards would look at the vacancies and would form views. Whether she formed so fully an articulated view at the time when these jobs came up is not clear. The Claimant did not raise these jobs at the time. The Claimant had access to the website. The Claimant did not raise any jobs but it seems to us if Ms Edwards had raised these jobs at the time, she would have made the same conclusions as she does before us.
42. What happened on the first day of the hearing was that the Tribunal gave the Claimant every opportunity to test the Respondent's position that no redeployment had been successfully identified. It was to an extent indulgent by the Tribunal to do that because the Claimant had throughout access to the list of jobs that were available. Nonetheless, we facilitated the process of obtaining this disclosure so that we would have the fullest of pictures. We have a fuller understanding of what happened and the merits of the position as a result. The process has not advanced the Claimant's case at all.
43. None of these jobs amounted to suitable alternative employment by way of reasonable adjustments or otherwise. It is not surprising that neither the Claimant nor Ms Edwards identified them at the time.

Conclusions

Section 15: discrimination arising from disability

44. Was the dismissal a proportionate means of achieving a legitimate aim? The legitimate aim is readily established in our judgement as operating a sickness absence policy which supports employees to return to work within a reasonable time frame and manages teaching absences, resourcing and staffing levels in a reasonable way. The issue is whether at the time of the decision to dismiss it was proportionate to do so.

- (1) The Claimant could not perform her substantive role.
- (2) The only issue therefore was whether there was another role she could perform.
- (3) The Claimant was maintaining that she was too unwell to perform any role.
- (4) The Respondent did examine opportunities and raised some of those with her.

- (5) The Claimant raised no roles other than the Programme Manager roles, which she did not pursue when Ms Edwards provided the full nature of the duties and the rates of pay.
- (6) There was no reason to wait any longer in having to make a decision on the position. There was no indication that within the foreseeable future the position would change.
- (7) When it came to the appeal the Claimant described the relationship as irreparably broken and was seeking a financial settlement as the only solution. By then, the prospect of redeployment had evaporated.

Reasonable Adjustments

- 45. Given that she could no longer perform her substantive role, the relevant reasonable adjustment was redeployment. There may have needed to be further reasonable adjustments to the redeployed role to facilitate redeployment but the first thing was to identify the role.
- 46. For the reasons listed above under proportionality of the decision to dismiss, it was not reasonable for the Respondent to redeploy her into any role because, first, the Claimant said she was unfit for any role; secondly, that was not going to change in the foreseeable future; and thirdly, a number of roles were raised with the Claimant none of which she pursued. The reasonable adjustments claim fails.

Victimisation

- 47. The Claimants words at the meeting on 28 March 2024 had no influence on the decision to dismiss. That decision was the outcome of a long-established absence management process which was following its course. Unless redeployment could be found, then obviously the contract of employment would be terminated. No words at the meeting on 28 March 2024 gave any additional causative significance to that process. The victimisation claim fails.
- 48. The outcome of this hearing is that the Claimant's claims fail and are dismissed.

Approved by
Employment Judge Smail
Date: 16 August 2026

REASONS SENT TO THE PARTIES ON
2 September 2026