



EMPLOYMENT TRIBUNALS

Claimant: Mrs N Kalsi
Respondent: Home Office

Heard at: Reading Employment Tribunal
On: 14, 15, 17, 21, 22 and 23 April 2026, 1 and 18 May 2026 and (tribunal only) on 11 and 12 May 2026

Before: Employment Judge Hawksworth
Mrs D Ballard
Ms HT Edwards

Representation

The claimant: represented herself
For the respondent: Ms H Hogben (counsel)

JUDGMENT having been sent to the parties on 25 June 2026, written summary reasons having been sent to the parties on 15 July 2026 and written full reasons having been requested by the claimant, the following written full reasons are provided.

FULL REASONS

The requests for reasons

1. Oral summary reasons under rule 60(4A)(b)(i) of the Employment Tribunal Procedure Rules 2024 were given to the parties at the hearing on 18 May 2026. At the hearing the judge told the parties that the reasons were summary reasons and that written summary reasons would only be provided if one or both of the parties asked for written reasons, either at the hearing or within 14 days of receiving the written judgment.
2. The claimant requested written reasons in an email sent on 19 May 2026. Before the reasons were provided, she emailed the tribunal again on 9 June and 25 June 2026 asking for written reasons.
3. In her emails the claimant asked for written full reasons. Where oral summary reasons have been provided, it is not open to a party to request written full reasons without first requesting written summary reasons (rule 60(4B) and (4E)).

Only the tribunal can choose to omit the written summary reasons stage. We did not decide to omit that stage in this case.

4. Our written summary reasons were approved by the judge on 14 July 2026 and sent to the parties on 15 July 2026. The written summary reasons said that written full reasons would not be provided unless requested by any party by a written request received by the Tribunal within 14 days of the sending of the written summary reasons.
5. After the written summary reasons were sent to the parties, the claimant emailed the tribunal on 4 August 2026 requesting written full reasons. I was made aware of the request on 6 August 2026. The claimant's request was made 6 days outside the deadline of 14 days from the date the written summary reasons were sent to the parties. However, as the claimant had previously said that she wanted to request written full reasons, the request is allowed under rule 5(7).

Claim, hearing and evidence

6. The claim is for disability discrimination and harassment. The claimant has worked for the respondent for over twenty years in several different posts. The claim is about things which happened while she was working for the respondent's Air Cargo Intelligence Development (ACID) team between 26 August 2021 and 16 May 2024. The claimant is still employed by the respondent but is now in a different role.
7. The hearing took place at Reading employment tribunal on 8 days between 14 April 2026 and 18 May 2026. The hearing was held mostly in person but it was conducted by video on day 1 and was hybrid on day 7. The claimant's witness Ms Hassan attended by video on day 5. There were deliberation days on 11 and 12 May 2026 which were attended by the tribunal only.
8. We made case management decisions at the start of the hearing and on day 5. Those decisions are recorded in two case management orders which were given to the parties on 16 April 2026 and 23 April 2026.
9. There was a main hearing bundle which originally went up to page 2326. Some late disclosure was added as explained in the case management orders. There was also a supplementary bundle which went up to page 411. Page references in this document are to the main bundle.
10. The case management orders also included the timetable for the hearing. This was agreed with the parties. It was revised on day 5 as more time was needed for witness evidence. We heard the witness evidence as set out in the revised timetable.
11. Closing comments were made on the afternoon of day 7. The respondent's counsel made written closing comments. The claimant and the respondent's counsel both made oral closing comments.

12. We gave the parties our judgment at the hearing on 18 May 2026. The claimant's complaints failed and were dismissed.
13. We gave oral summary reasons under rule 60(4A)(b)(i) of the Employment Tribunal Procedure Rules 2024. For each issue on the list of issues, we explained our findings of fact and how we applied the legal principles to those facts to reach our decision. The findings of facts and conclusions sections of these written full reasons broadly reflect the oral summary reasons we gave, although in these written full reasons the facts and our conclusions are in separate sections.

Issues for us to decide

14. The claims and issues were discussed at a preliminary hearing with EJ Tynan on 15 August 2025 and a list of issues was included in the case management summary sent to the parties on 15 September 2025 (page 177 to 185).
15. We discussed the list with the parties at the start of the hearing. There were some points in the list which we clarified at the start of the hearing. We recorded that discussion in the case management orders which were given to the parties on 16 April 2026.
16. We have recorded each of the issues in the headings of our findings of facts and our conclusions.

Findings of fact

17. Where the parties agree on facts we accept that that is what happened. Where there is a dispute between the parties, we make findings about what happened, to resolve the dispute. We decide what is most likely to have happened.
18. In this case we heard a lot of evidence about matters which were not directly relevant to the issues for us to decide. In this section we have set out our findings of fact on those matters that relate to the issues we had to decide.

Disability

19. In relation to the issue of disability, the respondent accepted that Mrs Kalsi was disabled at the relevant times by IBS, psoriasis, and depression, but not that she was disabled by stress and anxiety.
20. In her impact statement and in her evidence to us, Mrs Kalsi did not separately identify any effects she experienced because of her anxiety condition as opposed, for example, to the effects she experienced because of depression. There was no evidence before us to support there being any adverse impact caused by an anxiety condition.

Claim #1: Failure to make reasonable adjustments (ss.20-21 Equality Act 2010)

21. From August 2021, Mrs Kalsi's role for the respondent was on the ACID team as

an Intelligence Development Officer (IDO). The role required shift work. It was a small team, so it was difficult for the managers to ensure that all shifts (early, middle and late) were adequately covered.

22. IDOs were able to work from home three times a month and these work from home days were rostered. There were some parts of the role which could only be done from the office. In particular, the duty officer role, which rotated between team members, had to be done from the office.
23. Some features of the respondent's workplace were difficult for Mrs Kalsi to manage and she requested adjustments. These findings of fact relate to the complaint of failure to make reasonable adjustments.
24. We find that the respondent had the following provisions, criteria or practices (PCPs) as alleged at paragraph 14 of the list of issues:
- (a) Requirement/practice of employees performing the duties and tasks of their existing roles according to their existing contractual terms and conditions of employment (as varied by agreement);
 - (b) Requirement/practice of employees working in the respondent's offices/premises for the minimum number of days required under their existing contractual terms and conditions of employment (as varied by agreement);
 - (c) Practice of providing employees with a standard size/ specification laptop to be used for work purposes;
 - (d) Practice of providing employees with a standard size/ specification mobile phone to be used for work purposes;
 - (e) Practice of using overhead lighting at respondent's offices/premises for illumination;
 - (f) Requirement/practice of employees performing their work during set shift times and patterns, including an early shift;
 - (g) Requirement/practice of employees performing only work-related duties and tasks during their existing contracted hours (as varied by agreement)
25. We find that these PCPs disadvantaged Mrs Kalsi because of her disabilities (as alleged at paragraph 15 of the list of issues). PCPs (a), (b), (f) and (g) relate to duties, work location and working pattern. Mrs Kalsi found these features difficult because her disabilities meant that she had higher levels of sickness absence, impaired sleep, a need to work from home from time to time and a need to attend health related appointments during normal working hours.
26. The question of disadvantage is more complicated in relation to PCPs (c),(d), and (e), that is the provision of a standard laptop, a standard mobile phone, and the use of overhead lighting. We find, based on the evidence that we heard and read, that the main reason for any disadvantage to Mrs Kalsi from these features was an eye problem she was experiencing. The eye problem was not a disability. However, we accept Mrs Kalsi's evidence that these features caused her stress

because of the impact on her eyes, and that stress aggravated her disabling conditions, including IBS. The aggravation of her IBS as a result of stress was a disadvantage because of disability.

27. We find that the respondent knew about the claimant's disabilities. We find that it also knew or, in the alternative that it should have known, about the disadvantages. This is because the disadvantages were clear, or should have been clear, from the information provided to the respondent in the Occupational Health reports, stress risk assessments, and the DSE workstation assessment. Some of the claimant's managers did not see one of the claimant's Occupational Health reports until sometime after it was prepared, but the respondent as a whole was aware from April 2022 (the time of the report) of the disadvantages the claimant was under.
28. We next set out our findings of fact which are relevant to each of the adjustments which Mrs Kalsi says the respondent should have made.

17(a) manage the claimant's move to a post (either operational or non-operational) which had greater flexibility

29. We make the following findings of facts which are relevant to the suggested adjustment of a managed move to a different post. This is one of the key parts of Mrs Kalsi's claim.

- 29.1. In August 2021, Mrs Kalsi started in the role of IDO for the respondent's ACID team. This followed a move from another department on restructure. Mrs Kalsi fairly quickly formed the view that the role was not suitable for her. In particular, the shift pattern and lack of flexibility was a problem for her.
- 29.2. By March 2022, Mrs Kalsi's ACID team manager was taking steps to try and identify an alternative role, including allowing her to shadow other roles to see whether they were suitable.
- 29.3. In April 2022, an Occupational Health report recorded that Mrs Kalsi had requested a managed move. The respondent placed some reliance on the fact that the Occupational Health report did not recommend a managed move but rather reported what Mrs Kalsi had asked for. We do not accept that the absence of an Occupational Health recommendation would mean that the respondent does not have to consider it. As the Occupational Health report said, a move was a management decision, so would never be the subject of an Occupational Health recommendation. The reasonableness of the move was a question for management to consider. The Occupational Health report said that the claimant was requesting a move to alleviate stress and that stress could exacerbate her conditions which were likely to be disabilities.
- 29.4. In the period following that report, April to September 2022, the respondent continued to assist the claimant to explore other options but no roles were found with the flexibility required by the claimant.

- 29.5. The claimant had a short period of absence in October and November 2022.
- 29.6. A sickness absence review meeting took place in January 2023 with Stevan Jones, a manager, after another Occupational Health report was produced.
- 29.7. After the meeting, Mr Jones discussed possible administrative non-operational roles with the claimant. She did not want to accept a move that was not a managed move. The claimant used that term to describe a compulsory move to a different team. The relevance of the compulsory nature of the move was that Mrs Kalsi believed that under such a move she would retain her terms and conditions. That is what had happened with her move to the ACID team. Mrs Kalsi was keen to retain her terms and conditions because she had a 'legacy' entitlement to a shift allowance. The respondent said it could not permit Mrs Kalsi to retain a shift allowance if she moved to a role where (unlike the IDO role) she was not working shifts. In February 2023 Mrs Kalsi declined a move to some administrative (non-shift) roles, because the move would result in the loss of her shift allowance.
- 29.8. In June 2023, the claimant suggested some roles to her new manager, Lee Rees. Ms Rees assisted her to arrange shadowing to explore those roles and she spoke to other managers. These discussions were superseded by the claimant taking a period of long-term sickness absence. The absence began on 17 July 2023. Mrs Kalsi said she did not want to continue discussions about a move during her absence.
- 29.9. Mrs Kalsi returned to work on 18 December 2023. A meeting to discuss a move was scheduled for January 2024 but had to be rescheduled to 8 February 2024.
- 29.10. The meeting on 8 February was a Phase 1 meeting under the respondent's absence management process. It was attended by the respondent's HR Policy Lead on the managed compulsory move policy, so that they could provide detailed advice. They explained that the managed compulsory move process did not apply to a move which was a reasonable adjustment. A move as a reasonable adjustment would be regarded as a voluntary move, and new terms and conditions would apply. We find that that approach was in line with the respondent's policy at the time. There had been a change to the policy about 14 months before.
- 29.11. From this point, Mrs Kalsi agreed to proceed with a move on voluntary terms. Following another meeting on 7 March 2024, a letter recording the outcome of the Phase 1 meeting was issued. Mrs Kalsi was placed in the redeployment pool, also known as the Career Transition Service.
- 29.12. By May 2024 a suitable role had been found. Mrs Kalsi moved to that role on 16 May 2024, with a change of conditions.
- 29.13. The claimant made a grievance in which she complained about the length of time it took for her move to be arranged. Stephen Knight, the

grievance decision maker, upheld this aspect of Mrs Kalsi's grievance. He felt that, whatever term was applied to the move, it had taken too long. He was considering the chronology in general terms, and not considering this issue as a complaint of failure to make reasonable adjustments.

17(b) conduct regular stress risk assessments

30. The second suggested adjustment is about regular stress risk assessments. We make the following findings about the stress risk assessments which the respondent carried out and about the other opportunities which the respondent provided for the claimant to raise concerns about stress:

- 30.1. Mrs Kalsi was referred to Occupational Health in September 2021, the month after she began the role.
- 30.2. A manager carried out a stress risk assessment in December 2021.
- 30.3. In April 2022 there was a second Occupational Health referral.
- 30.4. A DSE workstation assessment took place in August 2022.
- 30.5. A third Occupational Health referral was made in December 2022. The advisor on that occasion suggested that regular Stress at Work Risk Assessments should be undertaken.
- 30.6. Another manager carried out the claimant's second stress risk assessment in March and April 2023, shortly after the Occupational Health referral in December 2022.
- 30.7. A fourth Occupational Health referral took place in December 2023.
- 30.8. A third manager carried out the claimant's third stress risk assessment in January 2024. That was around 9 months after the previous stress risk assessment.
- 30.9. A meeting to review the third stress risk assessment took place in February 2024.

17(c) permit the claimant to work 1 additional day from home

31. As we have explained, IDOs have three work from home days included in their shift roster each month. Mrs Kalsi asked to work an additional day from home each month. We make the following findings about the claimant's request:

- 31.1. The Occupational Health reports of September 2021 and December 2022 advised that occasional homeworking would be beneficial for the claimant.
- 31.2. This was difficult for Mrs Kalsi's managers to implement because the ACID Team was a small team which had to cover a range of early, middle, and late shifts. However Ms Rees allowed the claimant ad hoc working from home days when she could.

31.3. In June 2022 Mr Jones had a meeting with the claimant about a proposed rota which would include an additional work for home day every four weeks (page 320). We find, because the contemporaneous email communications after that meeting make clear, that this proposed rota was not agreed as a final position. For it to be confirmed, Mrs Kalsi would have to apply under the respondent's Flexible Working Policy for an additional working from home day.

31.4. The respondent required Mrs Kalsi to use the Flexible Working policy to request this because her request was for a contractual change. She was seeking a change from the position set out in her contract that she was required to work shifts in accordance with the shift pattern provided by her manager.

31.5. The claimant's managers were concerned that this adjustment would be difficult to incorporate because of the operational needs and the impact on the rest of the small team. They were, nonetheless, willing to give it formal consideration under the Flexible Working Policy.

31.6. Mrs Kalsi did not complete a flexible working application.

17(d) (e) and (f) - (d) provide the claimant with work laptop which had a larger screen, (e) provide the claimant with work mobile phone which had a larger screen, and (f) provide the claimant with an office lamp.

32. Mrs Kalsi experienced some difficulties with equipment and the office environment, specifically in relation to a laptop, a mobile and overhead lighting. Our findings about these are as follows:

32.1. The respondent provided an extra monitor for the claimant to use at work in September 2022 and ordered another monitor for her to use at home in November 2022. The additional monitor performed the same function that a laptop with a larger screen would have.

32.2. The claimant and some of her colleagues retained work mobile phones which had been issued in previous roles, but people doing the IDO role did not need a mobile phone. While it might have been convenient to have had a mobile phone, this was not required for the role because there were landline phones in the office and the laptops had Microsoft Teams functions. On 3 February 2023 Mr Jones told the claimant that she would not be provided with a work mobile phone.

32.3. In addition to overhead lighting, there were office lamps in the office. That is consistent with the fact that the team worked full shifts and was an evening working environment as well as a daytime working environment. Following the DSE assessment in August 2022, Mrs Kalsi was provided with an office lamp. The lamps were moved to storage over Christmas. When the claimant asked for a lamp again in February 2023, Ms Rees found her one.

17(g) phased return to work after 3 November 2022

33. This relates to a period of sickness absence of three weeks which Mrs Kalsi took in October/November 2022. At the end of that period of absence, Mrs Kalsi requested a phased return. Ms Rees told her that phased returns only applied to long-term periods of absence. Ms Rees allowed the claimant to leave early on her first day back.

34. Ms Rees conducted a return to work meeting promptly the following day. At the meeting Mrs Kalsi confirmed that she was fit to return to work.

17(h) during psoriasis flare-ups, permit the claimant to work from home

35. Mrs Kalsi was sometimes affected by flare-ups of psoriasis. The Occupational Health reports suggested that during flare-ups Mrs Kalsi might have to leave early but she may be able to work from home. There are two occasions on which Mrs Kalsi asked to work from home in these circumstances.

35.1. The first was 8 December 2022. On this occasion, Mrs Kalsi asked Ms Rees the day before, 7 December, whether she could work from home the following day if she became uncomfortable. She was seeking advance permission to work from home, depending on how things progressed. Ms Rees neither granted nor refused the request but instead suggested it should be considered the following day by Mrs Kalsi contacting the on-call officer in the event that she was not well enough to come to work.

35.2. The second occasion was on 6 June 2023. The claimant's request to work from home was refused because the claimant was the only officer on the late shift and if she worked from home there would have been no officer available to cover the office. We accept the evidence of the respondent's witnesses that there were parts of the role which could only be done in the office and that, because of an earlier change of shift, the claimant was the only officer due to be on the late shift. Ms Rees was not going to be available herself because she was conducting interviews. Ms Rees made clear that if Mrs Kalsi was not well enough to attend the office, even taking into account regular breaks, she could take sick leave.

17(i) on days when the claimant was rostered to work early shifts, make adjustments to Claimant's start times

36. The DSE assessment suggested that, when the claimant was working an early shift, it might be beneficial for her to start the shift an hour later (with a corresponding change to finish time of an hour later).

37. Like the additional working from home day, this change would have been a contractual change, because Mrs Kalsi's contract said that she would work shifts in accordance with the pattern provided by her manager. Mr Jones explained to Mrs Kalsi in May 2023 and July 2023 that a flexible working application would have to be made for this requested adjustment. The claimant did not make an application for this contractual change.

17(j) permit the claimant to attend counselling sessions during working time

38. The claimant was undergoing counselling and sessions fell during working time. We find that the claimant was permitted to attend counselling sessions during working time. Mrs Kalsi's managers agreed that she could work from home with a colleague covering whilst she was at her appointments (page 537). Some of the claimant's appointments were cancelled and there appeared to be some confusion on Mrs Kalsi's part about whether she had to cancel appointments. However, this suggested adjustment was accommodated.

Claim #2: Harassment related to disability (s.26 Equality Act 2010)

39. Mrs Kalsi says that she was subjected to disability related harassment by her managers during the period from 12 October 2022 to 20 March 2024. The complaints relate to meetings, email communications, allocation of work and feedback about work.

20(a) meeting on 12 October 2022

40. The first complaint of harassment concerns conduct at a meeting on 12 October 2022 between Mrs Kalsi and managers Stacey Coles, Mr Jones, and Ms Rees. This is another key part of the claim.

41. We have carefully assessed the factual background concerning this meeting and make the following findings of fact.

41.1. The meeting took place because Mrs Coles was visiting the ACID team office. She held one-to-one meetings with all the members of the team: the claimant was not singled out in that respect. The claimant's colleague Ms Hassan had a similar meeting the following day about the requirement to wear uniform.

41.2. The meeting with the claimant was attended by Ms Rees, the claimant's manager, and Mrs Coles, Ms Rees' manager. Another manager, Mr Jones, was called into the meeting towards the end.

41.3. Mrs Kalsi had no prior notice of the meeting or of anything that was to be discussed in the meeting. She had not been told that there would be any discussion about dips in performance.

41.4. The meeting was an informal meeting. It was not a formal grievance or disciplinary meeting. Mrs Kalsi was not told that she could be accompanied.

41.5. We accept the evidence of Mrs Coles and Ms Rees that the claimant was offered a break during the meeting but she declined the offer.

41.6. We accept Mrs Kalsi's evidence that it felt intimidating to discuss potential performance issues without being given notice of them, and with more senior managers. We find that detailed questions about specific work matters were asked in the meeting and the claimant was upset by those questions.

41.7. Mrs Kalsi's health issues were also discussed at the meeting. We have

carefully considered Mrs Cole's contemporaneous email note of the meeting, the comments added by Mrs Kalsi afterwards, and the evidence of Mrs Kalsi and Mrs Hasan about the discussions at the one-to-one meetings. We find that it was the discussion around the potential performance issues that upset Mrs Kalsi. That discussion related to specific work issues and the requirement to wear uniform. Mrs Kalsi was not upset by the mention of her health issues earlier in the meeting.

- 41.8. Mrs Kalsi took a three week period of sick leave which started on the day after the meeting.

20(b) on 31 January 2023, Stevan Jones advised the claimant her uniform material limits her role in going out to sheds for de-briefs

42. This relates to a meeting on 31 January 2023 between Mrs Kalsi and Mr Jones. It concerns the claimant's uniform material and uniform order. The same meeting is the subject of issues 20(c) and 20(d) as well.

43. We find that in the meeting Mr Jones made a comment along the following lines. We make this finding because it was recorded in the minutes of the meeting:

"NK didn't order any [uniform] until recently. Its taking longer as I know she required different material. This limits her role in regard to not being able to go to the sheds. This wasn't ordered in the first year when we asked."

44. The background to that comment was that the ACID team were told on 16 June 2022 that there was a requirement for them to wear uniform. By 12 October 2022 the claimant was still not wearing a uniform and had not ordered one. When the claimant did order a uniform, it had to be made in a specific material, for disability-related reasons.

45. We find that Mrs Kalsi misinterpreted Mr Jones' comment. He was saying that not having a uniform was limiting the claimant's ability to go to the cargo sheds. That was a task that had to be done in uniform. He did not mean that the claimant's need for her uniform to be made of a different fabric placed a limit on her ability to go to the cargo sheds. The limit on her doing her role was not because of her requirement for a specific fabric. Rather, the limit was because the claimant did not have a uniform, and that was because she had not ordered one when first asked.

20(c) on 31 January 2023 meeting, Stevan Jones raised performance issues with the claimant for the first time

46. At the same meeting on 31 January 2023, Mr Jones raised performance issues with the claimant.

47. Mrs Kalsi attended the meeting with her trade union representative. During the meeting, Mrs Kalsi initiated a conversation about work allocation and favouritism in the team. She complained that work was being allocated to other people rather than to her. Mr Jones responded by saying:

"The feedback from other sources is that when you have been tasked it might not get

done and they ask other people. You have been overwhelmed with what you have been sent.”

48. He offered training and support to resolve any computer issues. The claimant asked him an express question, “What is the issue with my performance?”
49. After the claimant asked that question, Mr Jones took a break. We accept Mr Jones’ evidence about what happened during that break. Mr Jones spoke to the claimant’s trade union representative about whether it was appropriate to respond to the claimant’s question. He did so because he had in mind the upset that raising performance issues had caused at the meeting on 12 October 2022. The claimant’s trade union representative said that Mr Jones should not shy away from providing necessary negative feedback.
50. After the break, Mr Jones outlined his concerns to Mrs Kalsi. He said that in terms of quantity and quality, her performance was below that of her colleagues. The feedback he gave was supported by specific details and was given in a calm and measured way.
51. We find, based on the minutes of this meeting, that the explanation about performance issues was given by Mr Jones in response to the direct question asked by the claimant. We find, based on the minutes, that the performance issues were not related to the claimant’s disability in any way.

20(d) at a meeting on 31 January 2023, Stevan Jones stated none of the OH reports had been seen by any managers because they were not released by the claimant

52. Issue 20(d) also concerns Mr Jones’ conduct at the same meeting. Mrs Kalsi said that at the meeting, Mr Jones stated that none of the Occupational Health reports had been seen by any managers because they were not released by Mrs Kalsi.
53. By reference to the minutes of this meeting, we find that a comment was made about releasing the reports, but it was narrower than alleged as it only concerned the April 2022 Occupational Health report, not all of the reports. What Mr Jones said was:

“The OH report was not released. We wanted a copy but you said you didn’t want this released.”

54. We find that Mr Jones said that the April 2022 report had not been seen because it had not been released by Mrs Kalsi. We find that he said this because that is what he thought had happened. His understanding was based on email exchanges he had with Ms Rees and Occupational Health. His understanding was not correct. The claimant had given instructions to release the April 2022 Occupational Health report, and it had been released to her previous line manager. But the position was confusing because the claimant’s previous manager had mistakenly failed to attach the April 2022 report when he sent a handover email to the claimant’s new line managers. By mistake, he only sent a partial summary of the report, not a copy of the report itself.
55. Mrs Kalsi clarified the position to Mr Jones. By the end of the meeting on 31 January, Mr Jones obtained Mrs Kalsi’s consent for him to see the April 2022

report. He recorded this in the note of the meeting.

20(e) on 27 February 2023, Lee Rees gave a 'heads up' about a case referral to team member Adam Dalwood, when he was on a working from home shift, not the claimant, when she was on a duty officer shift and the duty officer was required to monitor incoming case referrals

56. There are a number of complaints where the claimant complains about exclusion from emails or other work allocation issues.

57. Issue 20(e) is about a case referral being made to Adam Dalwood on 27 February 2023, rather than to the claimant. We find, in terms of the factual background here, that the case was referred to Adam Dalwood because he had done an initial check on the case. He was asked to do that check because further information was expected to come in the next day when he was rostered to be the duty officer. However, the follow up information came in earlier than expected, when the claimant was the duty officer. When the information came in to the team inbox, Mr Dalwood took it out. Given Mr Dalwood's earlier involvement, it made sense for Mr Dalwood to deal with the case referral.

58. As she was duty officer, Mrs Kalsi noticed the information coming in and then going out. She emailed Mr Dalwood about it. He explained what had happened and why he had taken it. The email exchange between Mr Dalwood and Mrs Kalsi is at page 558. This conduct was not in any way related to Mrs Kalsi's disability. It was because of Mr Dalwood's prior involvement with the case.

59. Further, we find, based on the email exchange, that Mrs Kalsi was busy with other things and was not too worried or upset by the work allocation on this occasion.

20(f) On 23 April 2023, Lee Rees excluded the claimant from an email chain to stakeholders regarding the claimant's work on a case

60. Issue 20(f) is a similar complaint relating to the claimant's work. It concerns an email that Ms Rees sent to stakeholders on 23 April 2023 after completing some urgent work on a case. She did not copy the claimant in to the email to stakeholders. Instead Ms Rees provided the claimant with an update in a separate email (page 817).

61. The decision to update the claimant in that way rather than copying her in was not related to disability in any way.

20(g) by email on 27 April 2023, Lee Rees raised issues regarding the Claimant's work on a briefing

62. Allegation 20(g) is about an email sent by Ms Rees on 27 April 2023 regarding the claimant's work with two other officers on a briefing. This email is at page 823.

63. In the email Ms Rees thanked both the claimant and the other author of the report for their hard work. She said that she had made a change to the report, in that

she had moved some material that went further than was needed into a separate document for future reference. The claimant had prepared the material that Ms Rees moved. Ms Rees' decision was operational. It was not related to disability in any way.

20(h) on 6 June 2023, Lee Rees excluded the claimant from an email she sent to stakeholders

64. Issue 20(h) concerns an email of 6 June 2023. The claimant says Ms Rees excluded her from the email.

65. We do not find that Ms Rees excluded the claimant from this email. Ms Rees copied the email to the team inbox. The claimant had access to that inbox. As Ms Rees explained, there was no need to send it to the claimant's individual email as well. This interaction was not related to disability in any way.

20(i) On 20 June 2023, Lee Rees excluded the claimant from email exchanges with the stakeholder regarding a case, causing the Claimant to miss out on information sharing and positive feedback on her work

66. Issue 20(i) is about an email sent on 20 June 2023 by Ms Rees. It relates to an occasion when one of the claimant's colleagues carried out a site visit for a case on which the claimant was the case officer. The email exchanges are at pages 958 to 960.

67. It was the claimant's colleague, not Ms Rees, who failed to copy the claimant into the email report of the visit. When the claimant raised this with Ms Rees, Ms Rees recognised that it was an omission. She spoke to the claimant's colleague and told them that, for any similar situation in future, the case officer should be updated at the earliest opportunity. Ms Rees explained to the claimant that the omission was probably because everyone was very busy and working different roster patterns. The omission of the claimant from the recipients of this email was not conduct related to disability.

20(j) On 25 August 2023, Stevan Jones said the claimant was "not comfortable in accompanying teams for de-briefs", despite the claimant advising him that it was not part of her job role when she applied but the role of the collection team

68. Issue 20(j) relates to a comment made by Mr Jones in an email on 25 August 2023 about de-briefs. We find that Mr Jones said that the claimant was not comfortable doing de-briefs.

69. There was a difference of opinion between the claimant and her managers as to whether her role included attending de-briefs to gather information from an agent following seizures. We find, based on the job descriptions that we saw, that it was part of the claimant's role to do these de-briefs.

70. The claimant objects to Mr Jones saying in his email that she was not comfortable doing debriefs. She says she would not do de-briefs because she thought it was not part of her role, not that she was not comfortable doing them. We find that Mr Jones used these words because he was trying to find a gentle

way to say that the claimant had refused to do de-briefs. It was not related to disability.

20(k) on 25 August 2023, despite the claimant completing all courses successfully, Stevan Jones sent an email to the claimant's trade union representative stating the claimant struggled with airside safety training and access systems required for her role

71. This issue, 20(k), concerns another comment made by Mr Jones in the email on 25 August 2023.

72. We find that Mr Jones said in the email that the claimant had struggled with the skills required for the role. He specifically referenced airside safety and systems access.

73. We find that Mr Jones' comment was an accurate summary of the position. The claimant had had to re-take airside safety training. This was an open book test with no time limit. She also had to be given a new password and refresher training for access to a system which she had already been given but had not realised.

74. This was not related to disability.

20(l) By email on 20 February 2024, Stacey Coles accused the Claimant of challenging Lee Rees' feedback, building up further grievances, passive aggressive behaviour, and bullying

75. Issue 20(l) concerns an exchange of emails between Mrs Coles and the claimant. These email exchanges took place on 19 and 20 February 2024 (page 1285). At this time, Mrs Kalsi was still on a phased return to work after a period of sick leave. She received some feedback from Ms Rees which we find was in measured terms. For example, Ms Rees said about one piece of work by the claimant, "I do feel this has taken a little longer than it should have" (page 197).

76. In an email on 19 February 2023, which the claimant copied to Mrs Coles, the claimant said:

"I also believe I'm being set up to fail since returning to my role and every case I get involved in there is some kind of criticism which isn't doing my mental health any good."

77. In response to this comment, Mrs Coles replied to the claimant in an email which included the words now complained of by Mrs Kalsi. Mrs Coles reminded Mrs Kalsi that she had raised concerns about this previously and they had been addressed. Mrs Coles went on to say:

"Challenging your manager every time constructive feedback is provided also affects their mental health and wellbeing and I am concerned with the tone of your emails and statements within that this is an attempt by you to build future grievances. This in itself is seen by the department as bullying. Consideration of wellbeing applies to all staff."

78. After a further exchange between Mrs Coles and Mrs Kalsi, Mrs Coles accepted:

“It is also your right to challenge feedback but it has to be done in a constructive manner, and I can see that is now taking place so thank you.”

79. Mrs Coles' comment about the claimant challenging her manager was firmly put but it was reasonable to do it in that way in this context. Mrs Kalsi found it difficult to accept feedback about her work. Mrs Coles was aware of the impact which the claimant's approach to feedback was having on Ms Rees.

80. Mrs Coles and the claimant had a frank exchange of views over this course of emails. The claimant's perception of management interactions was influenced by her view that her managers were excluding her or setting her up to fail. That view was not supported by the evidence. The exchange of emails was nothing to do with the claimant's disability.

20(m) on 21 February 2024, Lee Rees cc-ed Stacey Coles in further feedback sent to the claimant

81. This is a complaint about Mrs Coles being copied into an email on 21 February 2024 (page 1274). The email was sent by Ms Rees to the claimant. Ms Rees was about to go on rest days but wanted to provide important feedback to the claimant because a search the claimant had carried out had returned an inaccurate result. Ms Rees suggested that the software the claimant was using might need to be reinstalled.

82. Ms Rees copied Mrs Coles into that email. It was reasonable for Ms Rees to copy in Mrs Coles, in case the software issue she had identified was a problem which affected other officers or in case Mrs Coles needed to deal with it while Ms Rees was on rest days.

83. The email concerned a case about which Ms Rees had previously sent the claimant an email with some initial feedback. At paragraph 161 of her witness statement the claimant complains that Ms Rees provided feedback on one case in two separate emails. She says that Ms Rees should have given her consistent feedback in the first instance rather than providing further feedback in a follow-up email. We find that Ms Rees sent the second email in circumstances where she had identified a problem which could impact other work and so she needed to make the claimant aware of it.

84. These were normal management interactions. They were not to do with the claimant's disability.

20(n) on 22 February 2024 (by email), Lee Rees declined the Claimant's request (submitted via email on 22 February 2024) to sit down together and discuss a case

85. On 22 February 2024 the claimant emailed Ms Rees in response to the feedback Ms Rees had given her (page 1274). The claimant said, "I'm happy to sit together and discuss further, looking at the roster we are both next in on Monday."

86. Ms Rees was on rest days when the email was sent. She replied on 25 February

2024, three days later (page 1272). She said, "Happy to discuss your thoughts on inclusion of the above details on Monday."

87. Ms Rees did not decline the claimant's request to sit down to discuss the case. Rather, she confirmed she was happy to do so.

20(o) Lee Rees and Stacey Coles declined the Claimant's request (made by email on 19/20 March 2024) for open lines of communication on a piece of work

88. Issue 20(o) is a complaint that Ms Rees and Mrs Coles declined the claimant's request for open lines of communication.

89. The background to this complaint is that the Occupational Health report of December 2022 said that during sickness absence or formal meetings with the claimant, it might be helpful to have an independent notetaker present (page 2218).

90. In an email exchange between the claimant, Ms Rees, and Mrs Coles on 19 and 20 March 2024, the claimant asked to discuss some written feedback Ms Rees had given her. Ms Rees said:

"I appreciate that you would prefer a discussion but I won't be able to discuss this in detail with you face to face until our next one-to-one."

91. Ms Rees said this because an independent note-taker would be attending the one-to-one meeting, as recommended by Occupational Health. The claimant said that the Occupational Health recommendation only related to meetings and not conversations, suggesting that she and Ms Rees could have a feedback conversation without an independent note-taker being present. Ms Rees replied to that saying (page 1336):

"..in support of your needs to be notified immediately of feedback and at 1-1s have a note taker we have to therefore send feedback in an email format rather than discuss this with you at the time.

This is important for all parties when questions are raised or statements made around how the feedback has been delivered. This way is fair to all and was done in agreement with your union rep in attendance at one of the meetings you had with Steve, so you still receive the feedback in a timely manner."

92. Ms Rees was suggesting that feedback would be provided in writing, and only discussed at one-to-one meetings. That suggestion went further than the recommendation in the Occupational Health report which appeared to relate to formal meetings only. However, in the context of the claimant having raised regular concerns about how feedback was delivered, and where the advice was for there to be an independent notetaker present at meetings, it was not unreasonable for the claimant's managers to decide to provide feedback in writing rather than in conversations, so that there was a record to avoid any dispute about what was said.

93. This was not anything to do with the claimant's disabilities, it was to do with her approach to management feedback.

Claim #3: Discrimination arising from disability (s.15 EQA 2010)

94. Mrs Kalsi makes three complaints of unfavourable treatment because of two disability-related things.

95. The disability-related things are:

95.1. Issue 26(a): her impaired focus, concentration and attention to detail. We find that these were things arising from Mrs Kalsi's disability. They arose from the symptoms and effects of IBS, psoriasis and depression.

95.2. Issue 26(b): her greater difficulty using standard issue laptop/mobile phone. We find that the vision difficulties with the laptop and mobile phone arose from Mrs Kalsi's eye problem (which was not a disability). However, as we have explained in our findings about the reasonable adjustments complaint, we have found that the claimant experienced other difficulties as a result of the laptop and mobile phone, caused by her IBS and the impact of stress. The difficulty arose at least in part therefore in consequence of disability (IBS).

96. We make the following findings of fact in relation to the three complaints of unfavourable treatment which Mrs Kalsi says happened because of those things (issues 24(a) to 24(c)).

24(a) On 12 October 2022, the claimant attended an informal meeting with Lee Rees and Stacey Coles with no prior notice, and later Steve Jones who joined towards the end of the meeting

97. Issue 24(a) is about the meeting on 12 October 2022. We have made findings about that meeting already. We found that the meeting was informal, that no prior notice was given, and that it was attended by Ms Rees, Mrs Coles and Mr Jones (who joined towards the end of the meeting).

24(b) On 3 February 2023 Mr Jones denied the Claimant a work mobile phone

98. Issue 24(b) is about the failure to provide the claimant with a work mobile phone. This occurred on 3 February 2023 (page 192).

99. We have already made findings about this. The claimant and some of her colleagues retained work mobile phones which had been issued in previous roles, but people doing the IDO role did not need a mobile phone. While it might have been convenient to have had a mobile phone, this was not required for the role because there were landline phones in the office and the laptops had Microsoft Teams functions.

24(c) On 7 December 2023 Stacey Coles declined the Claimant's request for disability leave from 15 November to 15 December 2023

100. The third of the complaints of discrimination arising from disability concerns Mrs Coles' decision on 7 December 2023 to decline the claimant's request for a period of sickness absence from 15 November to 15 December 2023 to be

treated as disability leave (page 1093 to 1096).

101. Mrs Kalsi had been on certified sick leave since July 2023. An Occupational Health report of 6 November 2023 suggested some adjustments (page 2231). The respondent took steps to put them into place. Mrs Kalsi's GP provided a fit note for the period 15 November 2023 to 15 December 2023 which said she may be fit for work on the basis of a phased return, with altered hours, amended duties and workplace adaptations (page 2234). Mrs Kalsi clarified what other adjustments she was seeking. Mrs Coles sought guidance from the respondent's HR team.

102. Mrs Coles responded to Mrs Kalsi in detail on 7 December 2023. She explained that some of the requested adjustments could be accommodated but others, including changes to working patterns, could not be accommodated in the current role. Others were not supported by the medical advice. Mrs Coles said that the respondent had put all reasonable adjustments in place. It was willing to make additional adjustments where it could, including considering a move to a new role, but while that was being discussed and put in place, the claimant's absence would be treated as sick leave, not disability leave.

Claim #4: Direct disability discrimination

103. Claim number 4 is a complaint of direct disability discrimination. This is at paragraphs 31 to 33 of the list of issues.

104. The allegations of direct discrimination are at issues 31(a) to 31(g). Some of these allegations overlap with the complaints of harassment.

31(a) at a review meeting on 31 January 2023, Stevan Jones:

- (i) without prior notice, unreasonably raised performance issues with the claimant for the first time
- (ii) stated none of the OH reports were seen by any of the managers as they were not released by the claimant. The claimant relies upon a hypothetical comparator

31(b) on 27 February 2023, at Custom House, Lee Rees gave a 'heads up' about a case referral to team member Adam Dalwood, who was on a working from home shift, not the claimant who was on a duty officer shift, a role which requires the individual to monitor case referrals. The claimant relies upon Adam Dalwood as a comparator

105. We have already explained our findings of fact about these matters.

31(c) the Respondent placed the claimant in the career transition process (redeployment pool), despite her not being surplus and without making efforts to identify an alternative role for the claimant, which the claimant was informed of on 26 July 2023. The Claimant relies upon a hypothetical comparator

106. Issue 31(c) is a complaint of direct disability discrimination about the respondent placing the claimant in the career transition process, despite her not being surplus.

107. The Career Transition Service (the CTS) was used by the respondent to identify new roles for employees whose role was 'surplus' or no longer needed. The respondent's procedures also provided that the CTS was the appropriate route to use to identify a new role for an employee who needed reasonable adjustments which could not be accommodated in their substantive role.

108. Mrs Kalsi's role was not surplus, but she needed to be found a new role because her role on the ACID team was not suitable for her. It did not have the flexibility she needed. The respondent considered that it was not reasonable to make the adjustments she was seeking in terms of flexibility in the ACID role (because of nature of the role she was performing and the small number of people in the team). Therefore, a search for another role had to be carried out. The appropriate route for that search was the Career Transition Service. Placing her in the CTS in that context was in line with the respondent's procedures.

109. The respondent placed the claimant in the CTS because of the need to find her another role, not because of disability.

31(d) By email on 25 August 2023, Stevan Jones stated the claimant struggled with airside safety training and access system required for her role, thereby providing inaccurate and misleading information. The claimant relies upon a hypothetical comparator

31(e) On 25 August 2023 Stevan Jones falsely stated the claimant was not comfortable accompanying teams for de-briefs. The claimant relies upon a hypothetical comparator

110. We have already explained our findings about this email.

31(f) by email on 22 March 2024, Lee Rees provided the correct system access opportunities to Daniel Gray but not the Claimant

111. Issue 31(f) concerns system access which was provided to Daniel Gray but not to the claimant.

112. We find that Ms Rees made a number of attempts to find out the correct level of access for the claimant (pages 1340 to 1342). This was an IT issue that was appropriately investigated and ultimately was resolved by Ms Rees. It was not anything to do with the claimant's disability.

31(g) by email on 9 May 2024, Steve Jones declined the Claimant's compensatory leave accrued in 2023. The Claimant relies on a hypothetical comparator

113. The last of the complaints of direct disability discrimination is issue 31(g). It concerns compensatory leave that the claimant had accrued in 2023 and which was untaken at the end of that compensatory leave year. Mr Jones did not permit the claimant to carry over the untaken compensatory leave to the next leave year.

114. We accept the evidence of Mr Jones that carry over of compensatory leave was not permitted under the respondent's policy. We find that Mr Jones had no discretion to allow the claimant to carry over her untaken compensatory leave

from one year to the next.

Allegations about documents

115. We deal here with an overarching point about the evidence. At the hearing before us, the claimant made allegations that her managers had falsified or tampered with documents. These were very serious allegations to make and they were made in circumstances where there was very little to support them.
116. As a result of the large number of issues in the claim and the long period of time the allegations cover:
- 116.1. There was some late disclosure by the respondent;
 - 116.2. There were, not usually, multiple copies of some documents, and sometimes versions of the same document were printed in different fonts;
 - 116.3. Understanding the documents sometimes required tracking back through correspondence to identify what had been sent and when, as with the Occupational Health report in April 2022.
117. However, we accept that the respondent's witnesses were doing their best throughout to identify documents relevant to the complaints and that they were frank and open in their evidence to us. We find that none of the documents were tampered with or falsified as alleged or at all.

The law

Disability

118. Disability is a protected characteristic under sections 4 and 6 of the Equality Act 2010. The burden of proof is on the claimant to establish that she has a disability within the meaning of the Equality Act.
119. The definition of disability is contained in section 6 of the Equality Act:
- “(1) 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.
 - (2) A reference to a disabled person is a reference to a person who has a disability.
 - (3) In relation to the protected characteristic of disability—
 - (a) a reference to a person who has a particular protected characteristic is a reference to a person who has a particular disability;

(b) a reference to persons who share a protected characteristic is a reference to persons who have the same disability....”

120. Substantial means more than minor or trivial (section 212).

121. Schedule 1 to the Equality Act sets out additional detail concerning the determination of disability. In relation to long-term effects, paragraph 2 of schedule 1 provides:

“2(1)The effect of an impairment is long-term if—

(a) it has lasted for at least 12 months,

(b) it is likely to last for at least 12 months, or

(c) it is likely to last for the rest of the life of the person affected.

(2) If an impairment ceases to have a substantial adverse effect on a person's ability to carry out normal day-to-day activities, it is to be treated as continuing to have that effect if that effect is likely to recur.

(3) For the purposes of sub-paragraph (2), the likelihood of an effect recurring is to be disregarded in such circumstances as may be prescribed.

(4) Regulations may prescribe circumstances in which, despite sub-paragraph (1), an effect is to be treated as being, or as not being, long-term.”

122. When considering whether an effect is long-term, the question is whether there has been a substantial adverse effect as at the date the alleged discriminatory acts occurred or if not, whether as at that date, there was a substantial adverse effect which was likely to last 12 months (*Tesco Stores Ltd v Tennant* [2020] IRLR 363 EAT).

Direct discrimination

123. Section 13(1) of the Equality Act says:

“A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.”

Discrimination arising from disability

124. Section 15(1) of the Equality Act 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.”

125. 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.”

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

- 126.1. The tribunal must identify whether there was unfavourable treatment and by whom.
- 126.2. It must determine the cause of or reason for the treatment, focusing on the conscious or unconscious thought processes of the alleged discriminator.
- 126.3. 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.
- 126.4. 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.
- 126.5. 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. At this stage, the test is an objective one for the tribunal.

Failure to make reasonable adjustments

127. 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.”

128. The second requirement may also be relevant here. Sub-section 20(4) says:

“The second requirement is a requirement, where a physical feature 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.”

129. 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."

Harassment

130. 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."

131. Unwanted 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 person carrying out the conduct is not a relevant factor. In deciding whether conduct has the effect referred to, there are both subjective and objective elements. 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."

Burden of proof in complaints under the Equality Act

132. 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."

133. 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.

134. 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.

135. 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

136. In these conclusions, for each of the key issues in the list of issues we explain the conclusions we reached having applied the legal tests to the facts as we have found them.

Jurisdiction/time limits

137. The first heading in the list of issues after the list of legal complaints being brought is 'Jurisdiction' which here means time limits. We have left this point to the end because it will only be relevant if any of the complaints succeed.

Disability (section 6 Equality Act 2010)

138. The second heading on the list of issues is 'Disability'.

139. The respondent accepted that Mrs Kalsi was disabled at the relevant times by IBS, psoriasis, and depression, but not that she was disabled by stress and anxiety.

140. The first part of the test on disability under section 6 of the Equality Act 2010 requires us to decide whether a person has what is described in the Equality Act as a mental or physical impairment. Stress itself is not a mental or physical impairment. It is certainly a factor which can impact on other mental or physical health conditions, and the statutory guidance on the definition of disability says that we should consider how it interacts with disability. It is a feature that we take into account, but it is not an impairment in itself. Therefore, stress is not itself a disability under the Equality Act.

141. Anxiety is a mental impairment. As far as the anxiety condition that Mrs Kalsi relies on is concerned, that first part of the test is met. We go on to the next parts of the test which require us to decide:

141.1. whether anxiety had an adverse effect on the claimant's ability to carry out normal day-to-day activities;

141.2. if so whether the effect was substantial;

141.3. if so, whether it was long-term. Here that means whether, at the time of the alleged discrimination, the effect had lasted, or was likely to last, for 12 months.

142. The burden is on the claimant to prove disability. We did not have sufficient evidence on how her day-to-day activities were specifically affected by anxiety and when any effect happened, for us to be able to make findings about whether the anxiety condition met the legal test to amount to a disability. We have concluded that the claimant's anxiety was not a disability for the purposes of the Equality Act.

143. That said, our conclusion on the other issues would not have been any different if we had found that the claimant was disabled by anxiety. Our

conclusion on this issue has not impacted our overall decision: we would have reached the same decision in any event.

Claim #1: Failure to make reasonable adjustments (ss.20-21 Equality Act 2010)

144. The next heading on the list is claim number 1. That is an alleged failure to make reasonable adjustments. It is set out in paragraphs 14 to 19 of the list of issues.
145. It is a claim under sections 20 and 21 of the Equality Act. Under section 20, where a feature of the employer's working arrangements, known as a provision, criterion or practice (a 'PCP'), substantially disadvantages an employee because of their disability, the employer is under a duty to take steps to avoid or reduce the disadvantage, to the extent that it is reasonable to do so. The question of reasonableness is an objective one for the tribunal.
146. In this case, most of the evidence and the arguments we heard were about the reasonableness of the adjustments that Mrs Kalsi had suggested, as set out in the list of issues. We did not hear so much about the preceding parts of the legal test. In particular, we did not hear much in terms of evidence or submissions about whether the employer had the alleged PCPs, and if so whether the PCPs substantially disadvantaged Mrs Kalsi.
147. We adopted the same approach as the parties and kept our focus on the reasonableness of the suggested adjustments. But in brief on those preceding parts of the legal test:
- 147.1. We have found that the respondent did have the PCPs that were alleged at paragraph 14;
- 147.2. We have also found that the PCPs disadvantaged Mrs Kalsi because of her disabilities, as alleged at paragraph 15, and that the respondent was aware of her disability and the disadvantages.
148. In light of our conclusion on these points, we have gone on to look at the reasonableness of the adjustments which were proposed to address all of the PCPs.
149. We discussed another preliminary point about PCPs (d) (e) and (f) with the parties at the start of the hearing. These concern the claimant's difficulties with equipment and the office environment, specifically in relation to a laptop, a mobile and overhead lighting. We asked whether, in light of the suggested adjustments, these three complaints are actually auxiliary aid complaints under section 20(5), rather than PCP complaints under section 20(3). We decided that either way, these complaints come down to the same question of whether it was reasonable for the respondent to make the suggested adjustments.
150. Having explained those points, we come on to the adjustments that the claimant says should have been made. There were 10 suggested adjustments. They were listed in paragraphs 17(a) to 17(j). We will explain our reasons for our decision on each in turn.

17(a) manage the claimant's move to a post (either operational or non-operational) which had greater flexibility

151. The first suggested adjustment is to have managed the claimant's move to a post (either operational or non-operational) which had greater flexibility. The claimant suggested three possible roles.
152. This is one of the key parts of Mrs Kalsi's claim. We have set out above our findings of facts which are relevant to the suggested adjustment of a managed move. We explain here our conclusions on this suggested adjustment, having applied the legal tests.
153. The purpose of the duty to make reasonable adjustments is to allow disabled people to return to or remain in the workplace. The duty does not guarantee pay for work which is not being done. For example, it would not be reasonable to require an employer to maintain full pay during all disability-related sickness absence. That is not something which would assist with ensuring that disabled people can remain in or return to work.
154. Here, the respondent's approach of requiring a voluntary move with a change of conditions, rather than a managed or compulsory move retaining the shift allowance, was not unreasonable. It would not have been reasonable for the respondent to have had to continue paying Mrs Kalsi a shift allowance after she moved to a role in which she was not working the shifts that attracted the allowance. That was not a step which was required by the respondent's policy or which would have been reasonably required under the Equality Act.
155. In terms of the timing of the move, there was a long period between March 2022 and June 2023 when the respondent was aware that the claimant needed to move roles but no move took place. We have thought carefully about that, not least because Mr Knight, the grievance decision maker, upheld this aspect of Mrs Kalsi's grievance.
156. We agree that it would have been better if the move could have happened more quickly. But applying the legal test under section 20, we have concluded there was no failure to make reasonable adjustments during this period. This is because the delay was largely because the claimant wanted to retain her shift allowance in a new role. This is what she told the Occupational Health advisor in March 2022. The respondent would not agree to continue to pay the claimant a shift allowance if she moved to a role which did not attract the shift allowance. That was the sticking point, not any failure by the respondent. The claimant's approach on this point led to delays in a move taking place, for example in February 2023 when she declined offers of administrative roles for this reason.
157. The delay between July 2023 and December 2023 was because of the claimant's sick leave. It would not be reasonable to require the respondent to continue to progress a move during that period, against Mrs Kalsi's wishes.
158. Once Mrs Kalsi agreed to explore a voluntary move following the Phase 1 meeting in February 2024, the process moved quickly and the claimant started her new post in mid-May.

159. For those reasons, we have concluded that, although there was a lengthy period when the respondent was under a duty to identify a different role for Mrs Kalsi and when no role had been found, the delay in Mrs Kalsi changing roles was not because of failure by the respondent to make reasonable adjustments.

17(b) conduct regular stress risk assessments

160. The second suggested adjustment is about regular stress risk assessments.

161. There is a legal question here about the extent to which conducting a risk assessment can, itself, be a reasonable adjustment. The law generally regards a risk assessment as a step prior to a reasonable adjustment, being part of the process to identify the reasonable adjustments required, rather than an adjustment in itself.

162. But, in any event, we have found that the respondent did not fail to conduct regular stress risk assessments. The respondent carried out three stress risk assessments in the period we are looking at. It also provided multiple other opportunities for the claimant to raise issues regarding stress.

163. Even if we accept that conducting a regular stress risk assessment could be a reasonable adjustment in itself, the number of assessments and related reviews in Mrs Kalsi's case over this period mean there was not a failure to do so in her case.

17(c) permit the claimant to work 1 additional day from home

164. The claimant suggested that an adjustment should have been made to permit her to work one additional day from home every four weeks.

165. We have found that Mrs Kalsi's managers asked her to make an application under the Flexible Working policy for this adjustment to be formally considered. Even though Mrs Kalsi was requesting a reasonable adjustment, it was reasonable to require her to use this policy because Mrs Kalsi was seeking a contractual change.

166. Mrs Kalsi did not complete a flexible working application. She did not make a formal request to change her contract in this way. That was not a failure on the respondent's part to make reasonable adjustments. The respondent's approach was objectively reasonable.

17(d) (e) and (f) - (d) provide the claimant with work laptop which had a larger screen, (e) provide the claimant with work mobile phone which had a larger screen, and (f) provide the claimant with an office lamp.

167. We have dealt with adjustments 17(d), (e) and (f) together, that is suggested adjustments in respect of the laptop, the mobile phone and the overhead lighting.

168. In relation to the laptop (17(d)), it was reasonable not to provide a laptop with a larger screen because the additional monitor performed the same function and addressed any disadvantage the claimant was under.

169. In relation to the mobile phone (17(e)), the respondent did not fail to make a reasonable adjustment to provide the claimant with a work mobile phone with a larger screen. Mrs Kalsi was not provided with a work mobile phone because her role did not require one. The respondent provided alternative methods of communication which met the claimant's needs. It was not clear how a mobile phone with a larger screen would have addressed the disadvantage the claimant was under.

170. Suggested adjustment 17(f) is to provide the claimant with an office lamp to address the issues with the office lighting. We have found that the claimant was provided with an office lamp. There was no failure to provide an office lamp that would amount to a failure to make reasonable adjustments.

17(g) phased return to work after 3 November 2022

171. The claimant says that she should have been given a phased return to work after a period of sickness absence which ended on 3 November 2022 (suggested adjustment 17(g)).

172. We have found that Mrs Kalsi did not need a phased return to work after this three week absence. She was allowed to leave early on her first day. She confirmed she was fit to return to work on her second day. In the circumstances, the respondent's approach was a reasonable one to take. It was not a failure to make reasonable adjustments not to permit a phased return after a short period of absence when the claimant was fit to return in any event.

17(h) during psoriasis flare-ups, permit the claimant to work from home

173. Issue 17(h) is about the suggested adjustment of working from home during psoriasis flare-ups on two occasions.

174. The first was 8 December 2022. On this occasion, Ms Rees neither granted nor refused the request but instead suggested it should be looked at the following day by the on-call officer if Mrs Kalsi was not well enough to come to work. That approach was a reasonable one. It addressed the disadvantage the claimant was under. It was reasonable not to grant permission in advance on an 'if needed' basis. It was reasonable for Ms Rees to want the request to be considered at the time it became clear that it was needed.

175. The second occasion was on 6 June 2023. The claimant was the only officer on the late shift and if she worked from home there would have been no cover the office. Mrs Kalsi was told that if she was not well enough to attend the office she could take sick leave. The respondent's operational needs and the suggested alternative of taking sick leave if needed made refusal of the request on this occasion reasonable.

17(i) on days when the claimant was rostered to work early shifts, make adjustments to Claimant's start times

176. The next suggested adjustment is a change of the times of the early shift, to allow the claimant to start the shift an hour later (with a corresponding change to

finish time of an hour later). This is issue 17(i).

177. This proposed adjustment was not one that was recommended in an Occupational Health report. It was mentioned in the DSE assessment. It was not clear why it was included in that context rather than in the Occupational Health reports.
178. Like the additional working from home day, this change would have been a contractual change. Again, it was reasonable to require this change to be considered under the Flexible Working Policy. The claimant did not make an application seeking this contractual change.
179. The respondent did not fail to make a reasonable adjustment in this regard. This adjustment was not implemented because the claimant did not take the step that she was told that she had to take to have her request considered.

17(j) permit the claimant to attend counselling sessions during working time

180. Adjustment 17(j) is to permit the claimant to attend counselling sessions during working time.
181. We have found that this adjustment was implemented. There was no failure to make the adjustment.
182. In conclusion on the complaint of failure to make reasonable adjustments, for the reasons we have set out, none of these complaints succeed. While we agree that it would have been better if the claimant's move from the ACID team had taken place earlier, particularly in relation to the delay between March 2022 and June 2023, we have accepted that this was not because of a failure on the respondent's part. The respondent was taking steps to explore other roles for the claimant, and there were periods of sickness absence. Ultimately, much of the delay arose because the claimant sought a move on terms which were not permitted under the respondent's policy, and which were not required as a reasonable adjustment under the Equality Act.

Claim #2: Harassment related to disability (s.26 Equality Act 2010)

183. Claim number 2 is the complaint of disability-related harassment. It is set out at paragraphs 20 to 23 of the list of issues.
184. The legal test that we have to apply is in section 26 of the Equality Act 2010. It has a number of elements. We have to decide whether there has been unwanted conduct which is related to disability and which violates the claimant's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. We call this a 'hostile environment' for short.
185. This can be met either by the conduct being done with the purpose of violating dignity or creating a hostile environment, or by the conduct having that effect on the claimant. When we are looking at the effect of conduct (rather than the purpose) we have to consider both the subjective question of whether the claimant was affected in that way, and also the objective question of whether it

was reasonable for the conduct to have that effect.

186. As an overview, we have not found that any of the conduct relied on by the claimant was conduct related to disability. We explain this in more detail in relation to each of the allegations which are at paragraphs 20(a) to 20(o) of the list of issues.

20(a) meeting on 12 October 2022

187. The first complaint is about conduct at the claimant's meeting on 12 October 2022 with Stacey Coles, Mr Jones, and Ms Rees. Mrs Kalsi said that the meeting was poorly handled in that:

- 187.1. she had no prior notice;
- 187.2. It was an informal meeting handled formally;
- 187.3. She was not informed of her right to be accompanied;
- 187.4. There was no prior notice about the dips in performance; and
- 187.5. no breaks were offered.

188. Like the delay in the claimant's move, this meeting gave us some concern. We assessed the documents and evidence carefully when making our findings of fact. We found facts that supported some of the claimant's complaints about the meeting: the claimant did not have prior notice of the meeting or any notice that dips in performance would be discussed. She was upset and intimidated by it, especially in the context of there being more than one manager there. She took a period of sick leave from the following day.

189. One of the claimant's allegations was not made out on the facts - we found that the claimant was offered a break but she declined it. We also found that it was an informal meeting and that meant that the claimant had no right to be accompanied.

190. In light of those findings, we concluded that the discussion around potential performance issues did amount to unwanted conduct which the claimant found intimidating. It had that effect on her.

191. With hindsight, it might have been better to have addressed the performance matters in a meeting with the claimant's line manager first, rather than with more senior managers, or to have given her some notice, so that she could have prepared to respond to the detailed work-related questions she was asked.

192. However, we do not find that this conduct was related to the claimant's disability. Her health conditions were discussed at the meeting, but she was not intimidated by that part of the discussion. It is not enough that her health conditions were mentioned at the same meeting at which she felt intimidated by another part of the discussion. The conduct that the claimant found intimidating was not disability-related conduct.

193. Therefore, although the conduct at this meeting could be subject to some criticism, it did not amount to disability-related harassment.

20(b) on 31 January 2023, Stevan Jones advised the claimant her uniform material limits her role in going out to sheds for de-briefs

194. The second allegation of harassment relates to the meeting on 31 January 2023 with Mr Jones. It concerns the claimant's uniform material and uniform order. The same meeting is the subject of issues 20(c) and 20(d) as well.

195. We have found that Mrs Kalsi misinterpreted Mr Jones' comment. He meant that not having a uniform was limiting the claimant's ability to go to the sheds. He did not mean that the claimant's need for her uniform to be made of a different fabric placed a limit on her ability to go to the sheds. The limit on her doing that part of her role was not related to her disability. Rather, the limit was because she did not have a uniform, and that was because she had not ordered one when first asked to do so.

196. That means that the comment was not related to disability. It was related to the claimant's delay in ordering a uniform, not to the specific material that she required. It did not amount to disability-related harassment.

197. Even if we had found that this comment was related to disability, we would have concluded that it was not reasonable for the comment to have had the effect of violating dignity or creating a hostile environment for the claimant. It was a factual statement about the impact caused by the claimant's delay in ordering her uniform.

20(c) on 31 January 2023 meeting, Stevan Jones raised performance issues with the claimant for the first time

198. We found that Mr Jones mentioned performance issues in response to a direct question asked by the claimant, that they were supported by specific details and that he gave feedback in a calm and measured way.

199. While the claimant was clearly unhappy about these points being raised, there was no relationship between the performance issues and her disabilities. The unwanted conduct was not related to disability. This complaint of disability-related harassment does not succeed.

200. Even if we had found the conduct to have been disability-related, we would have concluded that it was not reasonable for a discussion of this nature about work matters, which occurred at the claimant's request, to have had the effect of violating dignity or creating a hostile environment for the claimant.

20(d) at a meeting on 31 January 2023, Stevan Jones stated none of the OH reports had been seen by any managers because they were not released by the claimant

201. Issue 20(d) on the list of issues is another allegation of harassment about Mr Jones' conduct at the same meeting.

202. We found that Mr Jones had misunderstood the position about the April 2022 occupational health report, and he thought the claimant had asked for it not to be released to managers. We found that this was a genuine mistake by Mr Jones. The mistake was understandable, given the lack of clarity about who had been sent the April 2022 report and when. Mr Jones' comment was made in the context of a disability-related report but it was not related to disability.

203. Even if we had found the comment to have been disability-related, we would have concluded that it was not reasonable for a mistake of this nature to have had the effect of violating dignity or creating a hostile environment, especially when, by the end of the meeting, Mrs Kalsi and Mr Jones had clarified things and agreed a way forward.

20(e) on 27 February 2023, Lee Rees gave a 'heads up' about a case referral to team member Adam Dalwood, when he was on a working from home shift, not the claimant, when she was on a duty officer shift and the duty officer was required to monitor incoming case referrals

204. The next allegation of disability-related harassment is 20(e). This is the first of a number of complaints about exclusion from emails or other work allocation issues.

205. We found that this conduct was not in any way related to Mrs Kalsi's disability. It was because of Mr Dalwood's prior involvement with the case. There was no link between this work allocation issue and the claimant's disability. It was not disability-related conduct. It did not amount to disability-related harassment.

206. Further, we find, based on the email exchange, that Mrs Kalsi was busy with other things and was not too worried or upset by the work allocation issue. It did not have the required effect to amount to unlawful harassment. If it had had that effect, we would have concluded that it was not reasonable for it to have done so.

20(f) On 23 April 2023, Lee Rees excluded the claimant from an email chain to stakeholders regarding the claimant's work on a case

207. Issue 20(f) is a similar complaint related to the claimant's work. We reach the same conclusions about this allegation.

208. Ms Rees' decision to update the claimant by sending her a separate email rather than copying her in was not related to disability in any way. The complaint fails for that reason.

209. Even if it had been, we would have concluded that it was not reasonable for that conduct to have had the effect of violating dignity or creating a hostile environment. It was a normal work interaction.

20(g) by email on 27 April 2023, Lee Rees raised issues regarding the Claimant's work on a briefing

210. Allegation 20(g) is about an email sent by Ms Rees on 27 April 2023 regarding the claimant's work with two other officers on a briefing.

211. Ms Rees' email was not related to disability in any way. It was an operational decision by her to include some material in a separate document rather than in the report itself. Even if it had been related to disability, it would not have been reasonable for this conduct to have had the effect of violating dignity or creating a hostile environment. The tests for disability-related harassment are not met.

20(h) on 6 June 2023, Lee Rees excluded the claimant from an email she sent to stakeholders

212. Issue 20(h) concerns an email of 6 June 2023.

213. The claimant says Ms Rees excluded her from the email. We have not found that she did. Ms Rees sent a copy to the team inbox and it was accessible to the claimant from there.

214. In any event, this interaction was not related to disability in any way. If we had found that it was, we would have concluded that it was not reasonable for it to have had the effect of violating dignity or creating a hostile environment. It was a normal operational interaction between the claimant and her manager.

20(i) On 20 June 2023, Lee Rees excluded the claimant from email exchanges with the stakeholder regarding a case, causing the Claimant to miss out on information sharing and positive feedback on her work

215. Issue 20(i) is another allegation of disability-related harassment about an email sent by Ms Rees. This relates to an email sent on 20 June 2023 when one of the claimant's colleagues carried out a site visit for a case on which the claimant was the case officer.

216. We found that the failure to update the claimant was a failure by a colleague, not by Ms Rees. The factual allegation is not made out. But, in any event, the omission of the claimant was not conduct related to disability. If we had found that it was, we would have concluded that it was not reasonable for a failure to be included in an email update by a colleague to have had the effect of violating dignity or creating a hostile environment.

20(j) On 25 August 2023, Stevan Jones said the claimant was "not comfortable in accompanying teams for de-briefs", despite the claimant advising him that it was not part of her job role when she applied but the role of the collection team

217. Issue 20(j) relates to a comment made by Mr Jones in an email about the claimant not being comfortable accompanying teams for de-briefs.

218. Again, this conduct was not related to disability in any way. The claimant's concern about this comment arises from the difference of opinion between her and Mr Jones about the scope of the IDO role.

219. If we had found that this comment related to disability, we would have concluded that was not objectively reasonable for it to have had the effect of violating dignity or creating a hostile environment, especially in circumstances where (as we have found) it was part of the claimant's role to carry out this task.

20(k) on 25 August 2023, despite the claimant completing all courses successfully, Stevan Jones sent an email to the claimant's trade union representative stating the claimant struggled with airside safety training and access systems required for her role

220. This issue, 20(k), concerns another comment made by Mr Jones in the email on 25 August 2023.

221. The comment was not related to disability. We have found that it was an accurate summary of some issues the claimant had experienced. Further, it was not objectively reasonable for this comment to have the effect of violating dignity or creating a hostile environment, in circumstances where it was factually accurate.

20(l) By email on 20 February 2024, Stacey Coles accused the Claimant of challenging Lee Rees' feedback, building up further grievances, passive aggressive behaviour, and bullying

222. Issue 20(l) concerns an exchange of emails between Mrs Coles and the claimant.

223. We have found that Mrs Coles' comment about the claimant challenging her manager was firmly put but that it was reasonable in the context of Mrs Kalsi's difficulties accepting feedback about her work and the impact this was having on Ms Rees. Importantly, we found that this exchange of emails was nothing to do with disability. It therefore cannot amount to disability-related harassment.

20(m) on 21 February 2024, Lee Rees cc-ed Stacey Coles in further feedback sent to the claimant

224. Issue 20(m) is another allegation of disability-related harassment about exchanges of emails involving Ms Rees and Mrs Kalsi.

225. It was entirely reasonable for Ms Rees to send a further email to follow up on a problem she had identified. It was also reasonable for Ms Rees to copy in Mrs Coles, in case it affected other officers or in case Mrs Coles needed to deal with it while Ms Rees was absent.

226. Again, this was not to do with disability. It was a normal management interaction. Further, it would not be objectively reasonable for this interaction (either Ms Rees sending two feedback emails or her copying Ms Coles into the second email) to have the effect of violating dignity or creating a hostile environment for the claimant.

20(n) on 22 February 2024 (by email), Lee Rees declined the Claimant's request (submitted via email on 22 February 2024) to sit down together and discuss a case

227. Issue 20(n) is an allegation of disability-related harassment that Ms Rees declined a request to sit down with the claimant and discuss a case.

228. This allegation of disability-related harassment fails because the facts are not

made out. We have found that Ms Rees did not decline the request to sit down to discuss the case with the claimant. Rather, she confirmed she was happy to do so.

20(o) Lee Rees and Stacey Coles declined the Claimant's request (made by email on 19/20 March 2024) for open lines of communication on a piece of work

229. The last complaint of disability-related harassment is issue 20(o). It is a complaint that Ms Rees and Mrs Coles declined the claimant's request for open lines of communication.

230. We have found that Ms Rees' suggestion that feedback should be given either in writing or at one to one meetings went further than the recommendation in the Occupational Health report. We found that, in the context, it was not unreasonable to provide feedback in these ways, rather than in conversations, so that there was a record to avoid any dispute about what was said.

231. This was not anything to do with the claimant's disabilities, it was to do with her approach to management feedback. It was not objectively reasonable for the way in which the respondent delivered feedback in this context to have had the effect of violating dignity or creating a hostile environment for the claimant.

232. That is the last of the disability-related harassment complaints. We have concluded that none of the allegations, as we have found them to have happened, were related to disability or had the required purpose or effect to amount to disability-related harassment.

233. While Mrs Kalsi may have been unhappy about the conduct, it did not amount to disability-related harassment under the Equality Act.

Claim #3: Discrimination arising from disability (s.15 EQA 2010)

234. Claim number three is discrimination arising from disability. It is set out at paragraphs 24 to 30 of the list of issues (page 183).

235. The legal test for discrimination arising from disability is found in section 15 of the Equality Act. We have to decide whether the respondent treated the claimant unfavourably because of something arising in consequence of disability, where the treatment was not justified. It is a complaint about unjustified unfavourable treatment which is because of something disability-related. Treatment is justified if it is a proportionate means of achieving a legitimate aim.

236. Mrs Kalsi says that she was treated unfavourably in three ways because of two disability-related things. The disability-related things are in issue 26(a) and 26(b). We have found that a) Mrs Kalsi's impaired focus, concentration, attention to detail and b) her greater difficulty using standard issue laptop/mobile phone all met the definition of 'something arising in consequence of disability'.

237. The three occasions of alleged unfavourable treatment is in issues 24(a) to 24(c). These complaints are not straightforward to understand as complaints of discrimination arising from disability.

24(a) On 12 October 2022, the claimant attended an informal meeting with Lee Rees and Stacey Coles with no prior notice, and later Steve Jones who joined towards the end of the meeting

238. The first is issue 24(a). It is about the meeting on 12 October 2022. As we understand this complaint, Mrs Kalsi says the meeting and the lack of prior notice of it, were because of a) her impaired focus, concentration, attention to detail and/or b) her greater difficulty using standard issue laptop/mobile phone.

239. We do not find that the meeting was because of any of those things. The meeting took place because Mrs Coles was attending the ACID office and she decided to meet individually with all staff. She met with Ms Hasan the following day. No notice of the meeting was given to any of the team.

240. The things relied on by the claimant were not an effective reason for or cause of the meeting, or the lack of notice, or the managers attending. This complaint of discrimination arising from disability does not succeed.

24(b) On 3 February 2023 Mr Jones denied the Claimant a work mobile phone

241. Issue 24(b) is the second complaint of discrimination arising from disability. It is a complaint about the failure to provide the claimant with a work mobile phone.

242. This complaint is perhaps better understood as a complaint of failure to make reasonable adjustments. We have already explained our reasons why that complaint does not succeed.

243. As a complaint of discrimination arising from disability, Mrs Kalsi is saying that she was denied a work mobile phone because of a) her impaired focus, concentration, attention to detail and/or b) her greater difficulties using a standard issue mobile phone. None of those things were an effective reason for or cause of the decision not to give her mobile phone. Mr Jones' decision not to give the claimant a work mobile phone was because she did not need a mobile phone for her work.

244. This complaint does not succeed.

24(c) On 7 December 2023 Stacey Coles declined the Claimant's request for disability leave from 15 November to 15 December 2023

245. The third of the discrimination arising from disability complaints concerns Mrs Coles' decision to decline the claimant's request for disability leave for the period 15 November to 15 December 2023.

246. As we understand this claim, Mrs Kalsi is saying that, during this period of sickness absence, she was waiting for the respondent to implement a reasonable adjustment, namely to move her to a suitable role. She says that her sickness absence should have been treated as disability leave.

247. It is difficult to understand how this can work as a complaint of discrimination arising from disability. The decision not to record the claimant's sick leave as

disability leave was not because of her impaired focus, concentration, attention to detail, or her greater difficulty using standard issue laptop or mobile phone. At this stage in the causal test, we are looking at the conscious or unconscious thought processes of Mrs Coles. She made her decision because she did not believe that Mrs Kalsi's absence met the requirements to be recorded as disability leave. She decided that Mrs Kalsi's return was not being delayed because of a failure to implement any reasonable adjustments and therefore it should be recorded as sick leave. The 'things arising in consequence of disability' were not effective reasons or causes of her decision.

248. The complaint of discrimination arising from disability does not succeed.

249. This issue has not been put as a complaint of failure to make reasonable adjustments, although it is perhaps better understood in that way. If it had been put in that way, we would not have found that treating this period of absence as sick leave rather than disability leave was a failure to make a reasonable adjustment. This is because the reason the claimant was not in a suitable alternative role at this time was her decision that she would only move under a compulsory managed move. The delay in the move to another role was not (as we have explained earlier) because of a failure by the respondent to make adjustments.

Claim #4: Direct disability discrimination

250. Claim number 4 is a complaint of direct disability discrimination. This is set out at paragraphs 31 to 33 of the list of issues.

251. The legal test for direct disability discrimination is in section 13 of the Equality Act. It arises where a claimant is treated less favourably than a comparator, and where that less favourable treatment is because of disability. A comparator could be a real person or a hypothetical person.

252. If there are facts from which we could find that less favourable treatment was because of disability, the burden shifts to the respondent to prove that the treatment was in no sense whatsoever because of disability.

253. It is important to emphasise that we are not considering whether the way in which Mrs Kalsi was treated was good treatment in general or best practice. A complaint of direct disability discrimination can only succeed if the treatment was because of disability.

254. The allegations of direct discrimination are at issues 31(a) to 31(g). There is an overlap with some of the complaints of harassment.

255. In summary, for the majority of these allegations, we have not found that any less favourable treatment was because of disability. We have been able to make positive findings as to the reason why most of these things happened. We have not found facts from which we could conclude that the treatment amounted to discrimination. If we had done, we would have accepted the respondent's explanations that the treatment was not because of disability.

31(a) at a review meeting on 31 January 2023, Stevan Jones:

- (iii) without prior notice, unreasonably raised performance issues with the claimant for the first time
- (iv) stated none of the OH reports were seen by any of the managers as they were not released by the claimant. The claimant relies upon a hypothetical comparator

256. This issue is about the review meeting on 31 January 2023 with Mr Jones. There are two allegations about that. The first is that Mr Jones raised performance concerns at the meeting without prior notice. We explained our findings of facts about this in the context of the complaint of disability-related harassment.

257. We found that performance issues were raised at this meeting because of Mrs Kalsi's express request to be told about the performance issues, and her trade union representative's suggestion that it would be better not to shy away from them. These were the reasons why Mr Jones raised performance issues without notice in that meeting. It was not in any sense because of Mrs Kalsi's disability.

258. The second allegation is about what Mr Jones said about the reason the April 2022 Occupational Health report had not been released. As we have explained earlier, the facts as we have found them are slightly different to way they are put in the allegation. We found that the comment related to one of the Occupational Health reports, not all of them. We found that what Mr Jones said about that report was because of a genuine and understandable mistake, not because of disability.

259. These complaints do not succeed because the treatment complained of was not in any sense because of disability.

31(b) on 27 February 2023, at Custom House, Lee Rees gave a 'heads up' about a case referral to team member Adam Dalwood, who was on a working from home shift, not the claimant who was on a duty officer shift, a role which requires the individual to monitor case referrals. The claimant relies upon Adam Dalwood as a comparator

260. This issue is about the case referral to Mr Dalwood on 27 February 2023. We have explained our findings about this in the harassment complaint. We found that the reason that Mr Dalwood was allocated the case was because of his involvement with earlier stages of the case, not because of the claimant's disability.

31(c) the Respondent placed the claimant in the career transition process (redeployment pool), despite her not being surplus and without making efforts to identify an alternative role for the claimant, which the claimant was informed of on 26 July 2023. The Claimant relies upon a hypothetical comparator

261. Issue 31(c) is a complaint of direct disability discrimination about the respondent placing the claimant in the Career Transition Service (the CTS), despite her not being surplus.

262. The CTS was an appropriate mechanism to find another role for the claimant. Placing her in the CTS in that context was in line with the respondent's procedures and was an appropriate step to take. The respondent placed the claimant in the CTS because of the need to find her another role, not because of the claimant's disability.

263. In any event, it was not less favourable treatment or a detriment to the claimant to be placed in the CTS. She wanted to find an alternative role and that was the right process to do that. It was effective: a new role was found for the claimant and she started in her new role in May 2024.

31(d) By email on 25 August 2023, Stevan Jones stated the claimant struggled with airside safety training and access system required for her role, thereby providing inaccurate and misleading information. The claimant relies upon a hypothetical comparator

264. Issue 31(d) concerns the comment made by Mr Jones in an email about the claimant's airside safety training and system access.

265. We explained our findings about this in relation to the harassment complaint. The comment was not made because of disability. It was an accurate summary of some issues the claimant had had with the training and the role. It did not amount to less favourable treatment because of disability.

31(e) On 25 August 2023 Stevan Jones falsely stated the claimant was not comfortable accompanying teams for de-briefs. The claimant relies upon a hypothetical comparator

266. Issue 31(e) is about the comment by Mr Jones in the same email that the claimant was not comfortable accompanying teams for de-briefs.

267. As we have explained in our findings of fact, this comment was not in any sense because of disability. In any event, it was not less favourable treatment because the claimant's position was that she did not want to accompany teams for de-briefs.

31(f) by email on 22 March 2024, Lee Rees provided the correct system access opportunities to Daniel Gray but not the Claimant

268. Issue 31(f) concerns system access which was provided to Daniel Gray but not to the claimant.

269. We have found that Ms Rees made a number of attempts to find out the correct level of access for the claimant. This was an IT issue that was appropriately investigated and resolved by Ms Rees. It was not anything to do with the claimant's disability.

31(g) by email on 9 May 2024, Steve Jones declined the Claimant's compensatory leave accrued in 2023. The Claimant relies on a hypothetical comparator

270. The last of the complaints of direct disability discrimination is issue 31(g). It

concerns compensatory leave that the claimant accrued in 2023.

271. We have found that the reason that Mrs Kalsi was not permitted to carry over compensatory leave was because the policy did not permit it, and there was no discretion to allow it. It was not because of disability.

272. For these reasons, none of the complaints of direct disability discrimination succeed.

The claim as a whole

273. At this stage, having focused on the claimant's individual complaints, we stepped back and looked at the claimant's claim in the round. It is necessary to do this to avoid the focus on the individual issues preventing us from considering the big picture.

274. We have concluded that Mrs Kalsi was unhappy about her role as an IDO fairly soon after transferring into the role, and that her unhappiness translated into how she perceived what were often routine management activities. It was a shift role and was fairly inflexible. While Mrs Kalsi's managers were able to provide some ad hoc flexibility, they were not able to provide the flexibility that Mrs Kalsi needed. The nature of the role and the small size of the team did not permit that. It was clear from a fairly early stage that Mrs Kalsi would need to move to a different role for that flexibility to be put in place.

275. We found, like Mr Knight, that the process of identifying another role for the claimant took longer than it might have done. However, we found that the process was delayed by the claimant's wish to retain her shift allowance if she moved. As the shift allowance was to compensate for working shifts, it would not have been reasonable to expect the respondent to continue to pay the allowance in a role where Mrs Kalsi was not working shifts.

276. We have also concluded, as we have explained, that the meeting on 12 October 2022 could have been handled more carefully. However, it did not meet the legal tests to amount to discrimination as the claimant alleged.

277. It was not an ideal situation for the claimant's managers to communicate performance concerns only in writing. However, that was an understandable approach to take in a context where Mrs Kalsi had previously misunderstood or misconstrued information provided to her, such as in relation to the uniform policy, and where she had previously raised concerns about being given feedback. The decision to record performance issues in writing rather than raising them verbally was because of this background. The claimant's managers wanted to have a record of what was said to avoid further problems arising. It was not because of the claimant's disabilities or anything arising in consequence of them.

278. For these reasons, none of the claimant's complaints succeed. As we have not found that any of the claimant's complaints succeed, we do not need to consider the question of whether the complaints were presented in time. We have decided the complaints on their merits rather than because of any time limit issues.

**Approved by:
Employment Judge Hawksworth**

Date: 4 September 2026

JUDGMENT SENT TO THE PARTIES ON
14 September 2026

FOR THE TRIBUNAL OFFICE