



EMPLOYMENT TRIBUNALS

Claimant: Miss K Hansbury

Respondent: Mr J Hunter

Heard at: Manchester **On:** 2,3,4,& 5 June and 6 August 2026

Before: Employment Judge Dennehy

Representation

Claimant: in person

Respondent: Mr G Williams (Consultant)

WRITTEN REASONS

Introduction

1. These written reasons were requested by the respondent following oral judgment given to the parties on 6 August 2026.
2. I heard evidence over four days in person at the Manchester Tribunal. I conducted my deliberations in the morning and delivered oral judgment on the fifth day via CVP.

Preliminary Matters and issues for the Tribunal to decide

3. At the start of the hearing I dealt with witnesses' availability as set out in the claimant's applications via the portal dated 16 May 2026 for AH to give evidence by CVP and to be flexible around timings for PF to which the respondent agreed.
4. The claimant is making complaints about the right to return to the same job, pregnancy and maternity discrimination and constructive unfair dismissal.
5. The respondent denies all the allegations and says they wanted the claimant to return to her job.
6. There was a preliminary hearing for case management on 12 June 2025, and the list of issues was drawn up by Employment Judge Allen. I confirmed with the

parties at the start of the hearing that these were still the list of issues that they wanted the Tribunal to determine.

Witnesses and Evidence

7. The respondent had prepared a bundle of documents which ran to 366 pages (**bundle**).
8. Witness's statements were provided by the claimant, Ayser Hussain a colleague who worked alongside the claimant (**AH**); and Paula Fielden a colleague of the claimant and worked as a team leader for the respondent (**PF**). For the respondent witness statements were provided by Jane Hunter, mother of the respondent (**JH**), Herbie Pool, the HR manager for Ask Jules, who provided support services to the respondent (**HP**). The respondent did not attend or give evidence.
9. All except PF were cross-examined because she did not attend either in person or via CVP. As the respondent was not given the opportunity to test PF's evidence I have placed limited weight on it.
10. The parties were given time to address the Tribunal on all aspects of their case.

Finding of facts and background

11. The following findings were reached by the Tribunal on a balance of probabilities having considered all of the evidence given by the witnesses during the hearing including documents referred to them and considering the Tribunal's assessment of the evidence.
12. Only findings of fact relevant to the issues and those necessary for the Tribunal to determine have been referred to in this judgment. It has not been necessary, and neither would it be proportionate to determine each and every fact in dispute. The Tribunal has not referred to every document it read or that it was taken to, into the findings below, but that does not mean it was not considered if it was referred to in the witnesses' statements or evidence and considered relevant to an issue in this case.
13. The claimant commenced employment with the respondent on 7 September 2020 and entered into a contract of employment which the claimant signed on 1 September 2020.
14. She was employed as a graduate personal assistant to the respondent who has the condition of cerebral palsy and requires 2:1 care for 12 hours during the day and 1:1 overnight. The claimant has a degree on history. The respondent was undertaking a university degree in history and had twenty hours of study a week for 34 weeks funded by the university.
15. The claimant's contract of employment contains a grievance procedure, disciplinary rules and capability procedures.
16. Her contract states "*if you feel aggrieved at any matter relating to your work, you*

should raise the matter with me, either verbally or in writing. You will be invited to a meeting at which you should explain fully the nature and extent of your grievance. If the problem has not been resolved within 10 working days or if you are dissatisfied with the decision, you have the right to appeal the decision and you will be invited to a meeting at which the matter will be further discussed with a view to resolution....I reserve the right to delegate any investigation or procedure to a suitable 3 party."

17. The respondent employs a team of 5 – 6 individuals to provide for his care 24/7. The team leader was PF until March 2023.
18. The local health authority funded the respondent's care.
19. Ask Jules are a lifestyle management company that manages its client's account/budget, recruits their personal assistants/carers and deals with all HR matters allowing their client to live an independent lifestyle. They provided the claimant's contract of employment and all advice to the respondent regarding HR matters including payroll.
20. The account manager at Ask Jules for the respondent was Ben Dulai (**BD**) until early 2024. He did not provide a witness statement and was not called as a witness by either party.
21. The claimant completed time sheets which were submitted to Ask Jules. Ask Jules required these as they provided pay roll support to the respondent,
22. The claimant shared providing educational support to the respondent with another personal assistant, Jack Enright (**JE**) until he left in 2022.
23. The claimant was referred to as the lead in educational support. This meant she directed other personal assistants on how to provide educational support and study support to the respondent.
24. PF left in March 2023, and PF duties were split amongst the rest of the team of personal assistants employed by the respondent.
25. The claimant became pregnant in April 2023 and notified the respondent of her pregnancy by text message on 21 July 2023.
26. On 27 July 2023 the claimant worked alone for 27 hours as a staff member had a family emergency. She discussed this with JH and sent her a text the next day stating that working alone for more than 24 hours was not safe for her.
27. A risk assessment was undertaken by BD. The risk assessment is in the bundle at page 182. It is an individual risk assessment and has the date 10 August 2023 in the top left hand corner. This was the only risk assessment presented to the Tribunal.
28. JH spoke to the claimant about the risk assessment on 10 August 2023 and the claimant is told she can no longer do the overnight shifts.
29. The claimant did not agree with the risk assessment and contacted BD and a call was arranged for 21 August 2023.

30. The claimant was sent the risk assessment on 21 August 2023 and has a conversation with BD the same day. BD reassures the claimant that she will not lose out on pay.
31. The claimant was given the opportunity to give feedback on the risk assessment and tells BD that she does not agree with risk assessment and confirms this in an email on 22 August 2023.
32. The claimant sent a message to JH on 22 August 2023 telling JH that “ *my anxiety is through the roof.... I can't continue with this stress*”
33. JH sends a message to the claimant the same day “*..there is no situation ..I have no intention of effecting your pay or conditions nor do I want you to be unhappy. Your hours may be different, but your pay will remain the same. What on earth has happened? Please speak to me, I can reassure you*” JH wanted to speak to the claimant, but the claimant says she is too upset to talk. They talk the next day on the phone and the claimant recorded the call without JH's consent. JH agreed to the contents of the transcribed call as set out in the bundle.
34. There are various messages between the claimant and JH in late August about a potential solution to allow the claimant to continue to undertake the overnight shifts, but this never materializes.
35. The respondent struggled to recruit personal assistants for the claimant's maternity leave and JH decided to remove the personal care element of the claimant's role when advertising for the claimant's maternity cover. That is the personal care element that involved overnight shifts.
36. On 20 October 2023 the claimant sends an email to HP stating that “ *I cannot do night shifts and trying to make up my money up through day shifts is really exhausting me*” and HP responds the same day stating, “ *Good to hear all is going well*”.
37. The claimant in her witness statement says that “*My role was getting very overwhelming at the point of Ethan's recruitment, and I was working 7 days a week some weeks. My stress levels were high and I did not feel safe or supported*”
38. The respondent appointed Ethan Morris (**EM**) as a personal assistant on 1 December 2023. The claimant was not aware of EM's job description or how his role was funded by the respondent. The claimant was involved generally in recruitment of other personal assistants but was not involved with the recruitment of EM.
39. JH relied upon Ask Jules regarding the process for maternity leave and the respondent's obligations re the risk assessment.
40. The claimant went on maternity leave on 17 December 2023.
41. The claimant emailed HP on 11 March 2024 and asked HP not to share the contents of her email with the respondent or JH because she says she wanted to return to her role after her maternity leave. Her email explains her experiences

prior to going on maternity leave, which were not positive.

42. HP responds on 15 March 2024, saying he respects her decision not to share her email and says “ *I was aware of the risk assessment but never brought to HR attention your concerns later in your pregnancy, and your meeting with Ben. Ben has left us recently. It would be unfair of me to simply blame him, but I do take responsibility on behalf of Ask Jules and again sincerely apologise for the stress this has caused you.*”
43. JH was not aware of the email from the claimant to HP and was upset when she found out about its contents.
44. On 10 August 2024 an in person meeting took place between the claimant and JH. AH was also there. The claimant tells JH that she has secured 2 days of child care and that she was thinking about a law course so couldn’t do weekends JH tells the claimant that EM would be staying on after the claimant returns. The claimant makes assumptions about the funding of EM’s role and university support, which later turn out to be incorrect.
45. The claimant messages JH after the meeting advising she can now do 3 days plus additional work from home. She says that she felt “ *a bit weird about our chat earlier*” and asks JH about what role she is returning to, as it appears to her that EM is now the primary person providing educational and university support.
46. JH replies that she hadn’t expected the claimant to return so soon, suggests using the keeping in touch days “*to see how things go for you returning*” The claimant replies mentioning that she wants to return to her original role and describes the educational support that she provided to the respondent and wants to continue providing. JH replies “*I aim to make it work for the whole team*”.
47. The next communication is on 19 August 2024. There are various messages between JH and the claimant on this day. The claimant continues to ask about the role she is coming back to. In response JH messaged the claimant “However the role at the moment would be predominantly care side and supporting the academic side where required rather than a lead academic role” and asks the claimant for her return date.
48. The claimant is unhappy with this message and tells JH that she did not apply for a predominately care role “*..You told me that Ethan was there for maternity cover and that my job was safe. I need to think about this before I commit to a return date.*” JH replies that she is surprised about the tone of the claimant’s message and says that the university timetable hasn’t yet been published, the claimant hasn’t given a return date, the claimant told JH that she wants to study to become a solicitor and has told JH the dates and times that she won’t be available to work, HJ says “ *the academic lead is best to remain with Ethan. I am happy to sit with you and work out your role in the team and hours to accommodate you in your return...*”. JH tells the claimant that it was necessary to create a purely academic position to ensure continuity of academic support for the respondent. JH says she is looking forward to the claimant’s return and will make it a smooth transition.
49. The claimant replies suggesting a shared role for educational and university support. She says “*I understand the role I applied for had a live in position which*

I can no longer do” JH says she is on a course and cannot respond until later.

50. When the claimant does not hear from JH she messages JH three days later with her return date. JH responds saying that she will pass on her return date to Ask Jules. There are various message regarding days and hours, the final message is from JH “ *I will look into all availability for shifts and confirm to you.*” JH does not get back to the claimant.
51. The claimant contacted HP by email on 19 August 2024 asking for clarification about her returning role because the meeting with JH on 10 August had not gone well. The claimant states that at the very least she had expected to share the educational and study support.
52. HP had a telephone call with the claimant on 22 August 2024 regarding her return role. The claimant records this call without consent. HP explained that the study support is a contact between Ask Jules and the claimant and everything else is covered by the contract between the respondent and the claimant.
53. HP did not have visibility of everyday operations of the respondent. HP tells JH at some point in late August to stop communicating with the claimant.
54. On 31 August 2024 the claimant emailed HP and says she found the phone call on 22 August upsetting; she explains the type of work that she does to support the respondent ie the educational support. She says that she is not upset at losing the university support, “ *The student support money was a bonus that I was unaware of when I took the role*” She says that she is seeking legal advice.
55. HP replies on 5 September 2024 “*Apologies for the late reply. I am seeking legal advice before I respond. I will update as soon as possible*”.
56. The claimant resigns via email to HP and JH dated 11 September 2024 mentioning constructive dismissal. She says, “*removing this element of my job just because I left for maternity is discriminatory and deceitful, considering you told me that my job was safe*” She mentions again the difference between the educational support and university “*The two are intertwined but not the same.*”
57. HP responds asking which role the claimant is resigning from, the personal assistant or Ask Jules student support. The claimant confirms that it is the personal assistant position.
58. HP writes to the claimant on 12 September advising that she is required to give one month’s notice.
59. On 26 September 2024 HP writes to the claimant asking her to reconsider her resignation. He says that “*Your role as Jed’s PA/Carer has not changed and Jed would welcome you back on the same terms as before, what we discussed would not be available is the academic support you provided Jed before your maternity leave which was a workers contract agreement with Ask Jules and not Jed.*”
60. On 30 September the claimant responds, “*I respect the gesture, but I hope you understand that my return is now out of the question*” She again explains the difference between the educational support and university support.

61. HP replies on the same day saying *“Thank you for confirming, we will process as a leaver and include all your accrued holiday pay to date”*
62. The claimant's last day of employment was 1 October 2024.
63. The claimant's ordinary maternity leave was from 17 December 2023, and her ordinary maternity leave of 26 weeks expired on 16 June 2024. Her additional maternity leave would have expired on 16 December 2024.
64. The claimant did not complete any keeping in touch days with the respondent.

The Law

Time Limits

65. Time limits are dealt with under section 123 of the Equality Act 2010 as follows:
“(1) [discrimination claims] may not be brought after the end of: (a) the period of 3 months starting with the date of the act to which the complaint relates, or (b) such other period as the employment tribunal thinks just and equitable ...

(3) For the purposes of this section: (a) conduct extending over a period is to be treated as done at the end of the period, (b) failure to do something is to be treated as occurring when the person in question decided on it.”
66. Those provisions on time are subject to the usual adjustments on account of early conciliation.

Constructive Unfair Dismissal

67. It is an implied term of the contract of employment that an employer will not conduct itself in a manner likely or designed to destroy the relationship of mutual trust and confidence between employer and employee, without reasonable cause.
68. A constructive dismissal consists of:
(1) one or more breaches of a contractual term by the employer.
(2) Which are individually or cumulatively sufficiently serious to justify a resignation.
(3) The employee as a matter of fact resigns for that reason.
(4) There is no undue delay whereby the breach could be deemed to be waived.

Maternity and Parental Leave Etc Regulations 1999 (MPLR)

Right to return after maternity or parental leave

69. *“18.—(1) An employee who returns to work after a period of ordinary maternity leave, or a period of parental leave of four weeks or less, which was—*

(a) an isolated period of leave, or

(b) the last of two or more consecutive periods of statutory leave which did not include any period of additional maternity leave or additional adoption leave, or a period of parental leave of more than four weeks,

is entitled to return to the job in which she was employed before her absence.

(2) An employee who returns to work after—

(a) a period of additional maternity leave, or a period of parental leave of more than four weeks, whether or not preceded by another period of statutory leave, or

(b) a period of ordinary maternity leave, or a period of parental leave of four weeks or less, not falling within the description in paragraph (1)(a) or (b) above,

is entitled to return from leave to the job in which she was employed before her absence or, if it is not reasonably practicable for the employer to permit her to return to that job, to another job which is both suitable for her and appropriate for her to do in the circumstances.

(3) The reference in paragraphs (1) and (2) to the job in which an employee was employed before her absence is a reference to the job in which she was employed—

(a) if her return is from an isolated period of statutory leave, immediately before that period began;

(b) if her return is from consecutive periods of statutory leave, immediately before the first such period.”

Pregnancy and Maternity Discrimination

70. In respect of maternity and pregnancy discrimination s 18 Equality Act 2010 says:

“(1) This section has effect for the purposes of the application of Part 5 (work) to the protected characteristic of pregnancy and maternity.

(2) A person (A) discriminates against a woman if, in the protected period in relation to a pregnancy of hers, A treats her unfavourably—

(a) because of the pregnancy, or

(b) because of illness suffered by her as a result of it.

(3) A person (A) discriminates against a woman if A treats her unfavourably because she is on compulsory maternity leave.

(4) A person (A) discriminates against a woman if A treats her unfavourably because she is exercising or seeking to exercise, or has exercised or sought to exercise, the right to ordinary or additional maternity leave.

(5) For the purposes of subsection (2), if the treatment of a woman is in implementation of a decision taken in the protected period, the treatment is to be regarded as occurring in that period (even if the implementation is not until after the end of that period).

(6) The protected period, in relation to a woman's pregnancy, begins when the pregnancy begins, and ends:

(a) if she has the right to ordinary and additional maternity leave, at the end of the additional maternity leave period or (if earlier) when she returns to work after the pregnancy;

(b) if she does not have that right, at the end of the period of 2 weeks beginning with the end of the pregnancy.”

71. The periods of ordinary and additional maternity leave are provided for in regulation 7 of the MPLR. The latest date on which a period of maternity leave starts is the date of birth of the relevant child and the period of maternity leave ends after 26 weeks (ordinary maternity leave), 52 weeks (additional and ordinary maternity leave) or at the end of the employee's employment.
72. These provisions mean that a claim for maternity or pregnancy discrimination must relate to unfavourable acts said to be done between the start of the employee's pregnancy and the end of the relevant maternity leave period (the protected period). This includes acts done after the end of the maternity leave period but that were decided to be done by the employer during the protected period.
73. This requires unfavourable treatment rather than less favourable treatment - there is no requirement to identify how a male comparator (say absent on grounds of ill health) would have been treated. As the ECHR Code of Practice provides, evidence of how others have been treated may be useful to determine the reason for the treatment.
74. For direct discrimination, and for pregnancy and maternity discrimination, it is necessary to determine the reason for the treatment. The reason for the treatment need not be the main or sole reason but must have at least a significant (or more than trivial) influence on the treatment to amount to an effective cause of it. In “reason why” cases the matter is dispositive upon determination of the alleged discriminator's state of mind. In “criterion cases” there is no need to consider the alleged discriminator's state of mind when the treatment complained of is caused by the application of a criterion which is inherently or indissociably discriminatory (**R (E) v Governing Body of JFS [2010] 2AC 728, SC**).
75. Such discrimination may be intentional, or it may be subconscious (based upon stereotypical assumptions). The Tribunal must consider the conscious or subconscious mental processes which caused the employer to act. This is not necessarily a question of motive or purpose and is not restricted to considering ‘but for’ the protected characteristic would the treatment have occurred (Shamoon).

76. Employment tribunals are obliged to take the EHRC code into account where relevant when considering claims under the Equality Act 2010.
77. The relevant Vento bands are those in place at the date that the ET1 is submitted ie 2024 and these were; Lower Band £1,200- £11,700/ Middle Band £11,700 - £35,200 and upper £35,200- £58,700.

Burden of Proof

78. Section 136 Equality Act 2010 applies.

Stage 1: The claimant must prove facts from which the Tribunal could conclude, in the absence of an adequate explanation, that discrimination occurred.

Stage 2: If that burden is discharged, the burden shifts to the respondent to provide a non-discriminatory explanation.

Conclusions

79. Both the claimant and respondent made final submissions which I carefully considered. In deciding the issues I have not set out all the evidence heard during the hearing but have selected those details which are most important to the decisions. Just because something is not mentioned does not mean that I did not consider it.
80. I also considered the Equal Treatment Bench Book, the ECHR code of practice on employment, ACAS Guidance and Health & Safety executive guidance.
81. During the hearing it appeared to me that there had been much miscommunication and misunderstanding among all those involved. It was that clear that the claimant was highly thought of by the respondent and her colleagues and the respondent wanted the claimant to return. It was also clear that the claimant loved her job and wanted to return to it.
82. In the interests of clarity, I think it is useful to understand the duties undertaken by the claimant which have been used interchangeably by both parties at different times, so to make it clear I am using the following words in a specific way in this judgment.
83. When I use the words “*educational support*” I mean support given to the respondent by the claimant which included in relation to his degree studies, delegating, essay planning, organizing, creating learning systems, aids, educational trips and assisting with research.
84. When I use the words “*university support*” I mean the 20 hours per week support as a study assistant which is put in place by Ask Jules, funded by the university and included providing the respondent with physical attendance at university, organizational and timekeeping support, note taker, typer, practical support assistant and social support.

85. When I use the words “*personal care*” I mean the physical and personal care given to the respondent.
86. When I use the words “*overnight shift*” I mean a period of 24 hours at the respondent’s premises which attracted a higher rate of pay

Issue 1 Right to return to the same job

Did the respondent comply with regulation 18 of the Maternity & Parental Leave etc Regulations 1999 and did the claimant return (or was she about to return) to the job in which she was employed before her maternity leave?

87. The claimant’s case was that her role that she was returning to had been changed. She had been providing the lead educational support and this educational support was removed from her role and given to EM which meant that the role she was offered was predominately a care role and she was only to provide educational support as required.
88. The respondent’s case is that the claimant’s role was more than educational support, that university support was shared, which was only for 20 hours a week for 34 weeks. The claimant took additional maternity leave and as such was not entitled to return to the job in which she was employed before her absence was another job that was both suitable for her and appropriate for her to do in the circumstances.
89. If an employee takes only ordinary maternity leave (**OML**), returns before the end of OML, ie 26 weeks or less, she “*is entitled to return to the same job in which she was employed before her absence*” (regulation 18(1), MPLR). Her terms of employment must be the same as, or not less favorable than, they would have been had she not been absent.
90. After 26 weeks an employee “*is entitled to return to the same job in which she was employed before her absence or, if it is not reasonably practicable, for the employer to permit her to return to that job, to another job which is both suitable for her and appropriate for her to do in the circumstances*” (regulation 18(2), MPLR).
91. The claimant was advised of this in a letter from HP dated 24 July 2023 which stated: “*as Jed’s employer I need to ensure that your health and safety is not put at risk whilst you are working during your pregnancy*”, together with information on maternity pay entitlement, notice requirements, keeping in touch days, annual leave entitlement. On return to work it states “*if you opt to return during, or immediately after your ordinary maternity leave, you are entitled to return to your present role. However, if you return at a date later than the end of your ordinary maternity leave you will only be entitled to return to the same job if it remains practicable for you to do so*”.

92. The claimant commenced her maternity leave on 17 December 2023 and her OML of 26 weeks expired on 16 June 2024.
93. The claimant then took additional maternity leave (up to additional 26 weeks) which continued after expiry of her ordinary maternity leave. The claimant's additional maternity leave was due to expire on 16 December 2024. Her last day of employment was 01 October 2024.
94. I considered which section of the regulations applied to the claimant, who had taken additional maternity leave beyond 16 June 2024 and I found that the job that the claimant was entitled to return to was that set out in 18(2) MPLR ie another job which is both suitable for her and appropriate for her to do in the circumstances.
95. I find that the claimant had no right to return to the same job because she had taken additional maternity leave. Her right, was to return to the same job in which she was employed before her absence or, if it is not reasonably practicable, for the employer to permit her to return to that job, to another job which is both suitable for her and appropriate for her to do in the circumstances.
96. In order to assess whether the job offered to her was suitable and appropriate I had to consider what was meant by the "*job in which she was employed before her absence*".
97. The EAT provided guidance in **Blundell v Governing Body of St Andrew's Catholic Primary School UKEAT/0329/06**. The EAT held that the purpose of regulation 18 was to "*provide that a returnee comes back to a work situation as near as possible to that she left*", so as to avoid adding to the "*burdens that will inevitably exist because she has a very young infant making new demands upon her*". For these purposes, the "job" was defined as "*the nature of the work which she is employed to do in accordance with her contract and the capacity and place in which she is so employed*" (regulation 2(1), MPLR).
98. The EAT held that the nature of the work could not be determined purely by the written contract, but regard must be had to what the employee was actually doing.
99. I first looked at the nature of the work, which is determined by what the contract of employment states. Looking at the claimant's contract of employment and what the claimant was contractually employed to do, it states the claimant's job title as Personal Assistant. Flexibility was stated in the claimant's contract as a requirement and depended on the respondent's needs. There are no duties or job description outlined in the contract of employment. The claimant in her acceptance letter cites her role as PA/Carer. There was no other contemporaneous documentary evidence presented to me as to what the actual duties were when the claimant commenced her employment with the respondent.
100. In **Rowan v Betrams Ltd ET Case No S/1830/78** it was noted that where there is no detail in the contract beyond the job title it may be more difficult for an employee to argue that the job has changed.
101. I find that the claimant's job title has not changed and is still that of Personal Assistant.

102. The place of work is the respondent's home address. This is confirmed in the contract of employment. The claimant also attended university premises with the respondent. I find that the claimants place of work had not changed.
103. Turning to capacity of work, which is not restricted by any contractual definitions, the case of *Blundell* describes capacity as "*the function in which the employee serves in doing work of the nature she does*".
104. I find that the claimant's job was made up of 4 elements: (i) personal care; (ii) educational support, which she says was more akin to specialized tutoring; and (iii) overnight shifts: and (iv) university support.
105. With regard to the educational support, this was initially shared 50/50 with another personal assistant, JE when the claimant began her employment with the respondent. JE left in 2022 and the claimant became, she says, the lead person providing educational support to the respondent. She did not always attend university with the respondent but did claim university support and directed the other personal assistants on what educational/university support they should be providing to the respondent.
106. When PF left in March 2023, PF duties were split amongst the rest of the team of personal assistants employed by the respondent. The claimant's case is that she took on more administrative duties from this date. The next month in April 2023 the claimant became pregnant and following a risk assessment in August 2023, she was told by the respondent that she was no longer able to work a night shift. Her case is that this had a detrimental effect on her income and as a result she went from working 3 days (wed, thurs/ fri) to working up to 5 or 6 days a week.
107. The claimant told me that the various elements of her role had varied throughout her employment and she broke this down as:

Role Element	Year 1	Year 2	Year 3
Educational support	25%	50%	70%
Personal care	15%	15%	10%
University support	20%	20%	20%
Overnight shift	40%	25%	nil
Days	Wed/Thurs/Fri	Wed/Thurs/Fri	Every day

108. The claimant told me that the university support had been a constant way of increasing her income as she could claim university support at the same time as personal care.
109. I looked at what each of the witnesses said about the claimant's role.
110. JH in her witness statement confirmed the claimant's role as "*throughout the course of the claimant's employment her daily responsibilities primarily involved providing educational and physical support to the respondent as well as providing personal care*" and "*The claimant commenced employment to support the respondent who was going to university and required educational support.... The educational support includes assisting the respondent with planning, research, assisting with lectures and note taking. It was a crucial role for his studies and this is why two educational Personal Assistants were recruited to share the load*".

and ensure that that the respondent would always have cover for any sickness, holiday cover within the academic team”

111. In cross examination JH admitted that she did not know exactly what the claimant did on a daily basis. I preferred the claimant’s evidence on this point as I found it on the whole to be convincing and consistent.
112. HP in his witness statement said *“Throughout the course of the claimant’s employment by Jed Hunter her daily responsibilities primarily involved providing physical support to the respondent as well as providing personal care, the claimant was also employed directly by Ask Jules to provide student support to Jed Hunter”* and *“ I understand that the claimant’s role was divided into an educational and care role but remained the same and was widely inclusive of a broad range of key responsibilities including educational support”* Later on in his statement HP says *“ The claimant’s role did not change under any circumstances“*
113. In cross examination HP admitted that he did not know exactly what the claimant did on a daily basis. I prefer the claimant’s evidence of what changes were made to the claimant’s role that she was to return to.
114. AH in his witness statement says that *“Prior to commencing maternity leave, Kathy’s primary role was focused on educational support and tutoring for Jed with some secondary care duties” .*
115. Taking into account all of the above I find that the capacity of work that the claimant was undertaking prior to her maternity leave comprised of at least 50% and as much as 70% of educational support to the respondent, together with personal care, physical care and university support. The claimant was not undertaking overnight shifts in her final year, because of the risk assessment, but overnight shifts were part of her role.
116. The claimant’s case is that she had been promoted to a team leader position after PF had left the respondent’s employment in March 2023. The claimant says she was referred to as a Team Leader by JH, but was never paid for the taking on the role.
117. The respondent’s case is that the duties were shared equally amongst the team members and that the claimant had not been promoted.
118. Both HP and JH stated in their evidence that the claimant had not been promoted. JH says the claimant was under the misunderstanding that she had been promoted to a team leader role, when she had not been, when the team leader had left her role was divided amongst all the other staff.
119. Neither of the claimant’s own witness commented on whether the claimant had been promoted.
120. I was not persuaded by the claimant’s argument and found insufficient evidence to support the claimant’s case that she had been promoted. I accepted that she may have been referred to the lead but find that that is because she provided the majority of educational support after JE left. There had been no variation to her contract of employment, no pay increase . Both JH and HP confirmed in their

evidence that the claimant had not been promoted to a team leader. AH did not comment on it. I did not find that the claimant had been promoted to team leader.

121. Having established the nature, place and capacity of the claimant's role and that the job that she was entitled to return to was that under regs 18 (2) MPLR I then gave consideration to: (i) whether the respondent had shown that it was not reasonably practicable to permit her to return to the same role; and (ii) but to another job which is both suitable for her and appropriate for her to do in the circumstances.
122. There is little case law on what "*reasonably practicable*" might mean. I considered **Raithatha v Addleshaw Goddard ET/2406019/05** the employer had moved the office where the employee undertook contentious work from Manchester to Leeds. The Tribunal held it was not reasonably practicable for the employer to permit the employee to return to the same job because of location change but then went on to find that the employer's offer of solely non-contentious work in Manchester was not a suitable alternative.
123. By contrast, in **Stelfox v Westco Building Components Ltd ET/15083/95** which suggest that, while a genuine business reorganisation might suffice, a simple preference for someone else to perform the role would not.
124. I found that the respondent's reasons for saying it was not reasonably practicable for the claimant to return to the same role she was employed before her absence were, firstly, the claimant had asked for different hours and days. The claimant had said she did not want to work the overnight shifts, was not available for the same number of days, was not available for early starts, she wanted to work from home. The claimant told JH she had initially secured 2 days of child care and cannot work weekends as the claimant was taking a course to qualify as a solicitor.
125. Secondly, JH was concerned that either the claimant would not return and/or that she wanted to pursue a career as a solicitor and go back to studying. JH says in her witness statement "*All in all the claimant was advising me that she could not return to her original role due to a change in her responsibilities and career aspirations* "
126. HP in his witness statement stated because the claimant had intended to study as a solicitor and provided JH with her availability "*due to this, the respondent decided that it would be most appropriate for the academic responsibilities to remain with EM. Due to the claimant's educational commitments there was plenty of care support available however due to the intensity of the respondent's undergraduate course the claimant's availability would not align with his educational needs*"
127. The reason that the hours and days were important to the respondent were to enable the respondent to have consistency of educational and university support. The claimant was returning earlier than expected and the university term had already started for the respondent. JH says in her witness statement she wanted the respondent to keep in his study routine, keep the structure to his week and to continue to experience university life.
128. The respondent had difficulty finding personal assistants to provide educational

support in time before university started for the respondent.

129. The claimant and JH both stated that it was difficult to find a suitable graduate personal assistant in good time before the claimant went on maternity leave. JH was concerned that there had to be educational support in place for the respondent to continue with his studies successfully, due to the nature of his disabilities. In order to make the position for graduate personal assistant more attractive JH decided that the personal care of the role should be removed as she felt it was putting off potential candidates. JH told the Tribunal she was able to create a tutoring role which had not previously existed.
130. JH told me that she did not consider offering this newly created role to the claimant, because JH was willing to accommodate the claimant in meeting her demands for change in hours, days and no overnights and if the claimant worked those hours JH says that the claimant would not have been able to provide sufficient educational and university support.
131. I find that the respondent has shown that it was not reasonably practicable for the claimant to return to the same role as she had before maternity leave, because the claimant did not want to do the same hours or duties. The respondent needed to maintain consistency of educational and university support for the respondent and had difficulties recruiting graduate personal assistants to provide this. These circumstances were unique because of the respondent's specific support needs and as the claimant herself had acknowledged because of the need to keep him focused on his studies.
132. I then considered whether the claimant had been offered a suitable alternative role.
133. The claimant's case is that she wanted to return to her original role but not the same hours or days or duties. She was trying to get clarity but was getting frustrated because it was not forthcoming.
134. The respondent's case is that it offered the claimant a role that was suitable for her and appropriate for her to do in the circumstances, namely, that of a personal assistant which was predominantly personal care but did include other duties such as educational support.
135. The reason given by the respondent that it was suitable was because the majority of the claimant's time was spent providing personal care, university support was only provided for 34 weeks of the year, and overnight shifts were personal care. The respondent says that the claimant's role was more than academic support. I agree that the claimant was providing more than academic support but I find that the claimant was the personal assistant that provided the most amount of educational support just before she went on maternity leave. Having said that the claimant had said that it was too much for one person and she did not want to return to that but rather her original role, where educational support was shared.
136. JH's position is that she had consistently offered to be flexible to ensure that the claimant was able to come back as she was highly valued. JH says there was plenty of personal care cover but not enough educational support. JH came across as sincere that she had wanted the claimant to return and thought that she was accommodating the claimant's request for changing her days and hours.

137. The claimant was highly experienced in all aspects of her job, there was no proposed reduction in her hours, pay or location. There was no demotion and was still answerable to JH. JH consistently says *"I aim to make it work for the whole team"*.
138. Taking all of the above into consideration I find that there was no infringement of the claimant's right to return. She had no right to return to the same job because she had taken additional maternity leave. I find that the role offered to the claimant after her additional maternity leave was suitable for her and appropriate for her to do in the circumstances. The respondent had shown that it was not reasonably practicable for the claimant to be offered to return to the same role.
139. The fact that the respondent complied with regulation 18 MPLR does not prevent the Tribunal from finding that the manner in which the role changed during maternity leave constituted unfavourable treatment contrary to section 18 Equality Act 2010.

Issue 2 Constructive Ufair Dismissal

Was the claimant dismissed and did the respondent force the claimant to quit after attempting to return to work after maternity leave, only to find that her job had been given away whilst she was on leave. ?

140. The claimant's case is that she was forced to resign because the respondent had given her job away and that the respondent's conduct over a period of time culminated in the final straw that she could not get clarity and reassurance around the role she was returning to. She wanted to return to her role predominately providing educational support but was told by the respondent that she could only return to a predominately personal care role.
141. The respondent's case is that the claimant resigned of her own choice. It does not agree that the claimant's role was given away because EM and the claimant's roles were different. EM did not do overnight shifts, did not provide personal care and worked a fixed number of hours.
142. As explained above, I find that the claimant was providing the substantial portion of educational support to the respondent prior to her becoming pregnant and prior to her going on maternity leave. Substantial meaning the claimant was spending more than 50% of her time providing educational support. The university support was shared with other members of the team.
143. HP in his witness statement states *" the claimant's role was not taken away from her and she was not offered a different role to come back as alleged"* and *" the claimant's role did not change under any circumstances"* but later on states at paragraph 28 *"I am unable to comment on the changes that the claimant has raised about the changes to her role"*.
144. JH in cross examination by the claimant admitted that she didn't know specifically what the claimant did regarding the educational support she provided to the respondent.
145. AH who worked alongside the claimant confirmed the claimant's role as *"Prior to*

commencing maternity leave, Kathy's primary role was focused on educational support and tutoring for Jed with some secondary care duties" .

146. The claimant had always been under the impression that EM was covering her maternity leave role. This was supported by AH who in his witness statement says “ *Jane stated that he was being recruited specifically to cover Kathy's maternity absence and that if suitable, he would continue to work under Katy's lead following her return*” .
147. The respondent's evidence is that it had created a new role for EM prior to the claimant going on maternity leave. This new role included providing educational support and university support. There were no overnight shifts or personal care involved. Although EM was recruited prior to going on her maternity leave the claimant was not aware of the specifics of this new role being created and at no time was advised about it.
148. As a consequence of the newly created role for EM, JH told the claimant that upon returning to work in a what's app message on 19 August 2024 “ *However the role at the moment would be predominantly care side and supporting the academic side where required rather than a lead academic role*”.
149. I find that this statement acknowledges that JH was unable to offer the claimant back to her previous role because it had changed. There was no mention of the plan for shared educational support. A shared role was not mentioned in the respondent's ET3 , and only appeared in JH witness statement and elaborated upon during this hearing when JH was giving oral evidence. I find that JH and HP did not know the specifics of what the claimant did on a daily basis regarding educational support and therefore could not know what had changed for the claimant and whether any part of her job had been given away.

Did that breach the implied term of trust and confidence? The Tribunal will need to decide: whether the respondent behaved in a way that was calculated or likely to destroy or seriously damage the trust and confidence between the claimant and the respondent;

150. I made the observation earlier that the relationship between JH and the claimant appears to have suffered from miscommunication for some time, which led to perceived unspoken grievances by both JH and the claimant which were never resolved, such as the USA holiday, the claimant's reflections on her maternity experience email to HP.
151. The claimant's case is that she consistently tried to get clarity from JH about her return-to-work role. The consistent response from JH was “ *your role is still here and we want you back*”, but it was never clarified what exactly “*your role*” was. The claimant was concerned that EM had taken her role. When a face-to-face meeting happens in August, this miscommunication continues.
152. The lack of clarity from JH made the claimant suspicious of what she was being told, and she decided to record (without consent) telephone conversations with JH. From the evidence presented, this appears to have started when the claimant was prevented from doing the overnight shift. The lack of proper explanation to the claimant as to why this was happening and the fact that the claimant felt her

input was unnecessary and when she did give it, she felt it was ignored, did not provide the claimant with confidence in what she was being told.

153. The claimant's evidence is that even though she had reassurance re her role from JH, she felt that trust was broken and she felt let down.
154. Although Ask Jules were aware of the claimant's concerns about her returning role, they did not assist either the claimant or JH in communicating better with each other. Ask Jules were the respondent's HR advisors, and both the claimant and JH were asking Ask Jules for support. HP told the Tribunal that the account manager for the respondent had left and because of this HP was not able to answer some questions when giving his oral evidence.
155. Ask Jules told JH not to communicate with the claimant. Unfortunately Ask Jules was not aware of the content of the conversations that the claimant and JH had between themselves. Meanwhile the claimant was becoming more frustrated that she wasn't getting the clarity she was seeking.
156. I find that there were missed opportunities to explain to the claimant that there was a plan for the shared educational role eg when HP wrote to the claimant asking her to reconsider her resignation. HP did not mention the shared educational support in his witness statement and therefore was not cross examined on it by the claimant.
157. I find that the inability of JH and HP to be explicit with the claimant in her communications and the inability of JH to sit down and resolve matters created such serious mistrust with the claimant that she felt the need to start recording conversations. JH was aware that the claimant overthinks, but does not manage to reassure the claimant about her role. HP was aware that claimant felt she had had a bad experience during her last few months before her maternity leave but does little to assist either JH or the claimant be clear about the role that the claimant is returning to. This behaviour seriously damaged the trust and confidence between the claimant and the respondent.

Did the respondent had reasonable and proper cause for doing so ?.

158. The respondent says it did these things because it had difficulties in finding a suitable personal assistant to cover the claimant's maternity leave. At all times JH says they looked forward to the claimant returning. The respondent says that they were working towards steps to finalising a role for the claimant when the claimant resigned.
159. I accept that there are exceptional circumstances in trying to provide consistency of support needed for the respondent so that he could continue his studies and the difficulties in finding suitable staff to cover the claimant's maternity. However, I find that the respondent through JH and Ask Jules (who were providing HR support services to the respondent) failed to communicate with the claimant in a clear and coherent way and did not have reasonable and proper cause for behaving in this way. I find that was no reason why the respondent could not have communicated the plan for shared educational support to the claimant earlier, had they wanted her to return to work.

Did the claimant resign in response to the breach? The Tribunal will need to decide whether the breach of contract was a reason for the claimant's resignation

160. The claimant's case is that it was the cumulative effect of the breach of the implied term of trust and confidence. The final straw was the failure by the respondent to give her clarity on the role that she was returning to was the same level of educational support that she had provided previously.
161. The respondent's case is there was no breach and as such the claimant could not have resigned in response to it.
162. The claimant told me that she loved her job and just wanted to get back to it, which is why she did not resign earlier. She was after clarity about her role. She could not get clarity from the respondent or Ask Jules as to what exactly her returning role was.
163. I considered whether the claimant had raised grievances as per her contract of employment, prior to resigning.
164. I find that although the claimant had initially raised her concerns orally and in writing via messages and emails she never took the step of making it clear when she was raising a grievance, a grievance that was so serious she subsequently resigned.
165. When the claimant emails HP re her pregnancy experience, she makes it clear that she does not want the respondent or JH to know about her complaint. I understand the claimant's reasons for saying this because she had wanted to come back to work but this did not help the claimant and the respondent to communicate meaningfully.
166. I find that Ask Jules as the party providing professional HR support services to the respondent could have reminded the claimant of the importance of following the grievance process for any concern she may have. I acknowledge they asked the claimant to discuss the maternity experience email, but they did no more than that.
167. The claimant in her communications that she felt that the trust and confidence as per paragraphs 170 and 172, as well as in her resignation letter. In her resignation letter she mentions the removal of overnight shifts, her team leader position, the removal of educational support, EM replacing her. She says *"removing this element of my job just because I left for maternity is discriminatory and deceitful, considering you told me that my job was safe"* this expresses how seriously the claimant felt that trust and confidence was gone and how important she feels that she has been deceived. *"I am gutted to end it like this but I see no way of returning"*.

Was it a fundamental term that was breached ?

168. I considered the ACAS guidance on implied duties. It states that the duty of trust and confidence between an employer and employee is implied. This means that they are crucial to a good working relationship, to help employers and employees

work together effectively and continue to apply when the employee is not working but is still employed. I find that the implied duty of trust and confidence is a fundamental term.

169. Both employer and employee have a duty of trust and confidence towards each other. They should behave in a way that shows they trust each other and treat each other with respect. Part of this is by communicating honestly and clearly with each other. The claimant is consistent in her attempts to try and understand what role she is returning to, what has happened to her previous role and what hours she could work. The respondent was consistent in failing to answer her queries. In order to succeed in a constructive dismissal case, the claimant needs to show that the respondent's breach was a fundamental breach of contract.
170. The claimant advises JH on 22 August 2023 that she would be absent from work the following day 23 August 2023 because she was so stressed by the situation. JH tried to telephone the claimant, but the claimant did not want to speak on the phone and wanted everything in writing and states in her witness statement that "*the trust was broken at this point*".
171. On 31 August 2024 the claimant writes to HP via email "*By this point I honestly didn't trust anything Jane or the agency told anymore. The trust and confidence between us had completely gone*"
172. JH consistently tells the claimant "*I will make it work for the whole team*" but this statement I find is vague. JH was aware of the claimant's tendency to overthink things but does not give the claimant sufficient clarity around her plans for the claimant upon her return and what if anything had changed.
173. I find that the claimant tries to communicate with Ask Jules in trying to get clarity but still doesn't get it. I considered whether these communication failures crossed the threshold from poor management into a fundamental breach and I find that they do because the claimant was on maternity leave, she was away from the respondent and was relying on what's app, text messages and emails to understand what role she was coming back to. At the meeting with JH on 10 August the claimant didn't get the reassurance she was seeking.
174. The claimant resigns on 10 September 2024. She says "*removing this element of my job just because I left for maternity is discriminatory and deceitful, considering you told me that my job was safe*" this expresses how seriously the claimant felt that trust and confidence was gone and how important she feels that she has been deceived because of broken promises.
175. I find that because the respondent consistently failed to engage with the claimant in answering her queries and concerns about the role she was returning to after her maternity leave this was a serious breach of the implied duty of trust and confidence. The claimant felt that she had been lied to and that the respondent could not be trusted because of this. I find that the claimant did resign in response to the respondent's breach of the implied term of trust and confidence.

Did the claimant affirm the contract before resigning? The Tribunal will need to decide whether the claimant's words or actions showed that they chose to keep the contract alive even after the breach.

176. The respondent's case is that if there had been a breach which the respondent denies then the claimant had affirmed the breach by waiting to resign and she should have resigned back in August 2023.
177. As early as August 2023 the claimant says that trust and confidence had broken down between her and the respondent, yet she remained there. I considered whether the claimant had accepted and affirmed that breach by remaining in the employment of the respondent. I found the claimant to be credible and consistent in explaining her feelings in not wanting to leave the respondent because she loved her work and wanting to work things out with the respondent about the job she was returning too. The respondent had wanted her to return and on the face of it all seemed well. The claimant said she thought things would resolve themselves and this is why she says she kept trying to get clarity on the role she was returning to. The claimant told me that she was hoping that the period of her maternity leave would give her time to recover from the experience she had running up to her maternity leave.
178. The claimant resigned via email on 11 September 2024 advising Ask Jules that she was resigning and will be bringing a constructive dismissal claim. The claimant does not give any notice. HP then forwards on this email to JH. HP replies the next day asking what job she is resigning from personal assistant role or student support. He tells the claimant on 12 September that she is required to give one month's notice.
179. The respondent then writes to the claimant two weeks later asking her to reconsider her resignation and to confirm her notice period. This letter does not mention sharing of educational support, it just mentions the university support which is says is what is no longer available and was put in place by Ask Jules not the respondent. Whilst the university support contact being separate was mentioned in the letter it was not expressly pleaded in the particulars of response.
180. I find that the claimant did not affirm the respondent's beach, by not resigning earlier. Re the notice period she only gave notice because she was told by Ask Jules that she had to give notice. She had been hopeful previously that matters would resolve themselves which is why she did not resign in August 2023.
181. Taking all of the above into consideration I find that the effective and underlying cause of the claimant's resignation was because of breach by the respondent of the implied duty of trust and confidence and that the claimant's complaint of constructive unfair dismissal is well founded and she succeeds in her constructive dismissal claim.

Issue 3 Pregnancy and Maternity Discrimination

(1) Did the respondent treat the claimant unfavourably by doing the following: The claimant's role of three years was given to her maternity cover whilst she was on maternity leave. She was offered a different role to come back to that was answerable to the person who took her role. The role for which the claimant applied was a graduate position, helping to mentor and tutor an individual through a history degree at university, as per her degree, and the role which she was offered to return to was a

care role;

182. The claimant's case is that her role was given away to EM whilst she was on maternity leave.
183. The respondent's case is that a new role had been created for EM, prior to the claimant starting her maternity leave. EM's role was educational support and university support. There was some care but not personal care. The claimant had the opportunity to do more hours but EM did not. The respondent does not agree that the claimant's role was tutoring, her role was a care role and the university support was for only 20 hours a week for 34 weeks a year.
184. In the respondents' final submissions Mr. Williams referred me para 9.30 and 9.36 of the ECHR code of practice on employment but when I looked at the guidance these paragraphs refer to gender reassignment discrimination. I have therefore assumed that this was a typo and what he meant to refer to was 8.30 – 8.36.
185. I have made findings of fact as to the claimant's role earlier and using those same terms I find that EM did not do overnight shifts or personal care. I find that a separate role had been created for EM that was not the same as the claimant's role.
186. I did not find any evidence to support the claimant's allegation that she was answerable to EM. It was stated that EM would be the lead but that does not follow that the claimant was answerable to EM.
187. JH had consistently offered to be flexible to ensure that the claimant was able to come back as she was highly valued. JH says there was plenty of personal care cover but not educational support.
188. I find that not all aspects of the claimant's role had been given to EM. However, the claimant's passion for educational support was evident throughout this hearing and in her evidence. Prior to her maternity leave the claimant had been the main personal assistant providing educational support to the respondent and the university support had been shared.
189. On 19 August 2024 JH messaged the claimant " *However the role at the moment would be predominantly care side and supporting the academic side where required rather than a lead academic role*".
190. I find that this statement shows that the claimant's role has changed and that the educational support part of her role was gone. The claimant was a history graduate, and the educational support was to assist the respondent with his history degree.
191. HP tries to clarify in a letter to the claimant dated 26 September 2024 that " *Your role as Jed's PA/Carer has not changed and Jed would welcome you back on the same terms as before , what we discussed would not be available is the academic support you provided Jed before your maternity leave which was a workers contract agreement with Ask Jules and not Jed.*"
192. I find that here HP was talking about university support, but the claimant was concerned re educational support. This confusion continues, but the respondent

via HP appears to ignore the claimant when she tries to clarify this in her email on 30 September 2024 to HP and JH.

193. On 30 September 2024 HP writes to the claimant asking her to reconsider her resignation. The claimant responds via email saying "*my return is now out of the question*" She goes on to say in her email that what she was concerned about was the educational support she gives to the respondent, disappearing from her role, not the university student support. However, HP never addresses this and responds the same day via email saying "*Thank you for confirming, we will process as a leaver and include all your accrued holiday pay to date*"
194. I find that the claimant's focus was always on the educational support element of her role and she provided evidence of what this involved in the bundle. I find that this part of her role had been given away to EM by the respondent. The claimant has satisfied stage 1 of the s 136 test and the burden passes to the respondent to provide a non-discriminatory explanation.
195. The respondent put forward the argument that there were two separate employment contracts one with Ask Jules for university support which guaranteed no work and the other with the respondent for everything else. I noted that this was not mentioned in the respondent particulars of response nor did the respondent file an amended particulars of response when it had the opportunity to do so. I have therefore treated it as background evidence only.
196. JH during her evidence given in the hearing she emphasized the "plan" for educational and university support to be a shared role between EM and the claimant upon her return. In JH's witness statement she says "*The claimant and EM were to share the academic role*"
197. JH said it was her intention that the educational support and study support be shared, as had been previously. I noted that no evidence was presented that showed that this plan had been communicated to the claimant prior to the claimant receiving JH's witness statement in October 2025.
198. This plan was never mentioned in the letter from the respondent asking her to reconsider her resignation, in the respondent's particulars of response and was only fully explained during this Tribunal hearing. I find that this omission goes to the credibility of JH's evidence on this point, because had this plan been the respondent's intention and explained earlier when HP wrote to the claimant asking her to reconsider her resignation, she would have been able to consider it.
199. I find that because the educational support element of the claimant's role had effectively been removed by the respondent, and because that was the aspect of the role which she regarded as most important, the claimant was treated unfavourably by the respondent. At the relevant time the claimant was not aware of any plan for that work to be shared. She had asked JH and HP for clarification on numerous occasions, but none was provided by either JH or HP.
200. Taking all of the above into consideration I find that the claimant's allegation of unfavourable treatment is well founded and succeeds. The claimant's role would not have changed had she not been pregnant.

(2) Did the respondent treat the claimant unfavourably by doing the following: around July 2023 the claimant's responsibilities were changed;

201. The claimant's case is that her responsibilities were changed because of the risk assessment. The unfavourable treatment she says she received was the way the risk assessment was handled, failure to act when she told the respondent she was exhausted from the day shift pattern she had to work after her night shift was removed, all of which caused her stress and financial insecurity.
202. The respondent's case is that they are unclear what exactly the claimant is saying happened as there are only references to July in her witness statement, her maternity letter and staff shortages. The respondent suggests that was being referred to is the additional duties that the claimant was asked to take on after her risk assessment all of which were within her capabilities and the implied duty of flexibility in her employment contract.
203. Due to the claimant's pregnancy, the respondent conducted a risk assessment which they have a statutory obligation to do so. The claimant has satisfied stage 1 of the s 136 test and the burden passes to the respondent to provide a non-discriminatory explanation for changing the claimant's duties in July 2023.
204. The Management of Health & Safety at work Regulation's 1999 Regs (3) 1 and 16 employers must carry out "a suitable and sufficient" risk assessment for its pregnant employees. If any risks identified cannot be avoided, then the employee should be suspended from work for as long as is necessary.
205. The claimant says that the failures of the risk assessment were: (i) no inspection of the respondent premises, which would have shown that hoists could be used so that the claimant did not have to do heavy lifting; (ii) it was not promptly completed; (iii) no further review of the risk assessment; (iv) her feedback on the risk assessment was rejected without explanation.
206. Undue delay in carrying out a risk assessment may mean that the employer will be in breach of the regulations, so I considered the time the respondent took in completing the risk assessment.
207. In **Home Farm Trust Ltd V Nnachi EAT 0400/07** N worked in a situation that exposed her to aggression, heavy lifting, carrying and stressful situations. She told her that she was pregnant on 9 May but a risk assessment was not undertaken until 22 May. This was found to be a failure to carry out a risk assessment.
208. However, in **Marshall and anor v Woolstone Community Center ET1201459/08** the point was made that the 1999 regs cannot require a risk assess to be carried out instantaneously and it must be the case that the employer has reasonable time to deal with it. In that case M told her employer she was pregnant on 9 September and on 25 September held a meeting to discuss her pregnancy. The ET held the employer had acted within a reasonable time. The difference bet these two cases is where the activities being carried out were inherently safe for her to do until the risk assessment was completed.
209. I considered whether there had been undue delay in carrying out the risk assessment as alleged by the claimant.

210. I noted that the respondent had placed reliance on Ask Jules to complete the risk assessment. In the letter to the claimant on 24 July 2023 HP confirms that they will need to consider the claimant's health and safety. HP told me that he always ran everything past legal and was aware of the EHRC guidance in principle. This was not a novel task for Ask Jules but part of the support services they provided to the respondent and their other clients.
211. The risk assessment shows that the claimant notified the respondent of her pregnancy by text message on 21 July 2023. At this point she was three months pregnant. The claimant was planning to work for at least another five months.
212. JH talks to the claimant about the risk assessment on 10 August 2023 and the claimant is told she can no longer do the overnight shifts. The claimant was sent the risk assessment on 21 August 2023 and has a conversation with Ask Jules the same day.
213. The claimant was informed of the contents of the risk assessment during a conversation with JH on 10 August. Therefore, it has taken the respondent 3 – 4 weeks from hearing of the claimant's pregnancy to tell the claimant about the contents of the risk assessment, at which point she was 4 months pregnant.
214. I considered the environment that the claimant was working in and the contents of the risks identified in the risk assessment eg lone night working and find that by taking 3-4 weeks to complete the risk assessment the respondent had delayed in producing the risk assessment.
215. I then considered whether the risk assessment was suitable and sufficient. The regulations do not define what constitutes a suitable and sufficient risk assessment for these purposes.
216. In **Day v Pickles Farms Ltd 1999 IRLR**, employers need only identify the commonplace hazards and risks. They do not have to consider more remote risks that may be suffered by a few individuals.
217. In **Stevenson v JM Skinner and CO EAT 0584/07** his honor Judge McMullen stated that "*an individual risk assessment is best conducted with the employee herself so that any particular difficulties that she may encounter can be addressed specifically*"
218. However, in **O'Neill v Buckinghamshire County Council 2010 IRLR 384** the EAT stated that there is nothing in the regulations that legally requires the employer to meet with the employee when carrying out a risk assessment.
219. The claimant accepts that the respondent had a statutory obligation to conduct a risk assessment as soon as she told the respondent that she was pregnant to ensure that her workplace is a safe environment for her.
220. A failure to inspect an employee's workplace may render a risk assessment insufficient as per **Cox v Bernard Matthews Ltd ET**. This case differs in that the employer did not inspect the site that the employee was working in which exposed her to a risk. In the claimant's case her complaint is that a risk had been identified that could be managed. The claimant's case is that there were no risks in her doing the overnight shift and Ask Jules did not take her comments on this

on board.

221. I find that the claimant was given the opportunity to input to the risk assessment, I find that she was involved and was able to provide her comments on it. It was an individual risk assessment. The risk assessment was a serious and genuine evaluation of the harm that might occur. The reason why the claimant could not do overnight shifts was not explained sufficiently to her, that the respondent's insurance would not cover the claimant working alone on an overnight shift.
222. I find that the risk assessment undertaken by Ask Jules on behalf of the respondent was suitable and sufficient. I then looked at whether there had been any review of the risk assessment once it had been completed.
223. An employer's duty to take action under the regulations after conducting a risk assessment can extend to changing the employees' working conditions or hours of work ie suitable alternative work. The regulations state suitable alternative work means "it is of a kind which is both suitable in relation to the employee and appropriate for her to do in the circumstances"
224. The respondent's case is that they did this by giving the claimant more administrative duties such as overseeing the respondent's nutrition and ensuring all shifts are covered.
225. JH asked the claimant to take on other duties and says that the claimant was given more administration duties because of the restrictions on her duties due to the risk assessment. "...such as stock taking, reordering stock, , having a closer look at the nutritional benefits of respondent's meals, , writing on the diary who was in for each shift as the team often swapped shifts or amended start times to suit their requirements. "
226. I find that the additional duties given to the claimant were within her capabilities and were a suitable alternative.
227. Unfortunately, the consequences of the suitable alternative duties had the effect of the claimant having to work more hours during the daytime. The rate of pay for the daytime hours was less than the overnight shift pay.
228. The claimant complained about having to work longer hours and how this was exhausting her physically and causing her stress. She raises her workload with JH in a WhatsApp message on 25 November 2023 and in an email on 4 December 2023.
229. I noted that as the claimant progressed in her pregnancy, she was also travelling some distance to work more frequently and working 5 or 6 days a week to make up her pay, so that it matched the pay she had when she was doing the overnight shifts.
230. The risk assessment clearly states that the claimant should notify Ask Jules regarding her hours and to ensure she got breaks. The claimant complies with this and sends HP an email on 20 October 2023 stating " ..trying to make my money up through day shifts is really exhausting me"
231. I find that these messages should have alerted the respondent that the claimant

was struggling and that the risk assessment should have been reviewed to ensure the health and safety of the claimant at that time.

232. The risk assessment had identified working longer hours and insufficient breaks as potential risks but these were not reviewed once the risk assessment had been done, after the claimant began working more hours during the day.
233. The Health & Safety Executive guidance online re protecting pregnant workers states that employers should regularly review their worker's individual risk assessment and make any adjustments, as the pregnancy progresses and if there are any significant changes to the workers' activity or workplace. This is because different stages in the pregnancy may pose different risks.
234. As the claimant progressed in her pregnancy, she was no longer doing 12 hour shifts but was travelling some distance to work more frequently and working 5 or 6 days a week to make up her pay. Both HP and JH confirmed that no further reviews were done to assess the risks to the claimant after August 2023.
235. I find that there had been no review of the risk assessment after 21 August 2023 and the failure to review the risk assessment was a breach of the spirit of an individual risk assessment for a pregnant employee.
240. Taking all of the above into consideration I find that the respondent treated the claimant unfavorably by delaying the completion of the risk assessment and by failing to review the risk assessment once done. The claimant suffered physically and financially because of the change to her duties after completion of the risk assessment. The reason for the risk assessment, and the subsequent changing of the claimant's duties after July 2023 were because of the claimant's pregnancy. The claimant's complaint is well founded.

(3) Did the respondent treat the claimant unfavourably by doing the following: in August and September 2023, night shifts were removed from the claimant.

241. The claimant's case is that because she was deprived from working nights she had to work more hours during the day in order to maintain her income from the respondent. The claimant had to then work longer hours during the day shifts because she lived some distance from the respondent's premises. This says the claimant caused her to suffer from stress and physical exhaustion. The claimant told the respondent that she was exhausted and struggling. The claimant has satisfied stage 1 of the s 136 test and the burden passes to the respondent to provide a non-discriminatory explanation.
242. The respondent's case is that the claimant did not suffer any unfavourable treatment because the reason for the overnight shifts ceasing was because of the risk assessment which the respondent had to do in order to comply with its Health & Safety obligations.
243. I made findings on the suitability of the risk assessment above and they apply equally here. In summary, the respondent had a statutory obligation to conduct the risk assessment and to ensure that the claimant was kept safe in her working environment during her pregnancy. That risk assessment identified that the

claimant should not be working alone on an overnight shift and as a consequence the claimant was no longer allowed to work overnight shifts. I make no criticism of the respondent for doing this.

244. Under the MPLR in such circumstances where overnight working is not allowed the respondent can suspend the employee or offer suitable alternative work. The respondent offered suitable alternative work which comprised of administration duties alongside the claimant's other duties.
245. JH had told the claimant that the claimant would not lose out and that they could try and make it work. There was talk of a plan that never materialized. The reality was that the claimant ended up working longer hours during the day shift because of the pay she had lost from the overnight shifts.
246. I acknowledge and accept that the respondent had good intentions and JH genuinely wanted the claimant to not lose any pay. The reality however was that by removing overnight shifts the claimant ended up working more hours to maintain her pay. The respondent did not carry out any further risk assessment on the likely risks to the claimant in undertaking more hours during the claimant's dayshifts. She did not live locally, which was not considered by the respondent.
247. The EHRC code of practice chapter 8 states that "*steps taken to protect pregnant workers's health and safety should not result in them being treated unfavourably*"
248. I find that the effect of the removal of the overnight shifts amounted to unfavourable treatment, on the grounds of the claimant's pregnancy because she had to increase her work hours to maintain her level of pay. Had it not been for her pregnancy then she would not have been doing these additional hours.
249. Taking all of the above into consideration I find that the claimant was treated unfavourably by the respondent in removing her overnight shift because the respondent did not consider the physical or financial effect of such action on the claimant's pay and the additional hours she would then have to work, together with more frequent travel. Also because the respondent had not completed a review of the risk assessment, once the claimant had raised her concerns with them. The claimant's complaint is well founded.
250. In respect of all three allegations:

Did the unfavourable treatment take place in a protected period?

I find it did as the protected period began on 1 April 2023, and ended on the claimant's last day of employment, 1 October 2024.

Was the unfavourable treatment because of the pregnancy?

I find that had the claimant not been pregnant then her role would not have changed. She would have remained in her role had she not been pregnant.

Was the unfavourable treatment because the claimant was exercising or seeking to exercise, or had exercised or sought to exercise, the right to ordinary or additional maternity leave?

I find that it was.

Issue 4 Time limits

The allegations of pregnancy and maternity discrimination set out as issues 3(2) and 3(3) were not made within the primary time limit. The application to amend was first made on 10 April 2025. Applying section 123 of the Equality Act 2010, the Tribunal will need to decide:

Whether they were part of conduct extending over a period which ended on 17 June 2024 or later?

If not, were the claims made within such further period as the Tribunal thinks is just and equitable? The Tribunal will decide:

(i) Why were the complaints not made to the Tribunal in time?

(ii) In any event, is it just and equitable in all the circumstances to extend time?

251. The claimant's case is that the additional allegations set out in issues 3(2) and 3(3) were part of the wider course of conduct during her pregnancy, that formed part of the events relating to her maternity leave and to her attempted return to work. She says it is the same parties involved and the same decision makers. She says she did not make her claim earlier because she was on maternity leave and wanted to return to her job.
252. The respondent's case is that the allegations set out in issues 3(2) and 3(3) do not amount to conduct extending over a period of time. The respondent avers that issues 3(2) must have expired at the end of July so primary time limit was 30 October 2023 and 3(3) would have expired by on 30 September and primary time limit would have expired by 29 December 2023. When the claimant contacts ACAS it is around a year after the events in issues 3(2) and 3(3).. and the respondent is prejudiced because of this.
253. I firstly considered whether the two new allegations were part of conduct extending over a period which ended on 17 June 2024. A continuing act involves an ongoing discriminatory regime or repeated behaviour, is it not a one off decision.
254. The allegations that the claimant wants included are events that happened after she told the respondent that she was pregnant. They are about the changes to her role after the risk assessment and how that affected her. She says that they are part of the pattern of behaviour of the respondent and cumulatively add up to discriminatory behaviour.
255. I considered the case of **Commissioner of Police for the Metropolis v Hendrick 2003 ICR 530** which held that there must be a continuing state of affairs within in which various acts or omission are founded on the same sort of statutory breach. More recently in **Worcestershire Health and Care NHE Trust v Allen 2024 EAT 40** the EAT determined that the constituent parts of a

“continuing act” must have a nexus and be essentially the same sorts of acts.

256. The risk assessment; removal of overnight shifts; and later return-to-work discussions I find were separate acts rather than one continuing discriminatory state of affairs.
257. The EAT's recent emphasis in Allen has been on identifying a genuine continuing discriminatory regime rather than simply related events. I find that the two allegations 3(2) and 3(3) are events which began in July 2023 when the claimant told the respondent was pregnant and although they are related to some degree, I do not find that they are part of a continuing discriminatory regime. I do not find that allegations 3(2) and 3(3) are part of conduct extending over a period of time which ended on 17 June 2024.
258. I also went on to consider whether it was just and equitable to extend the time limit.
259. Under the Equality Act 2010 any claim must be made within 3 months of the date of the act, complained about ie this is called the primary time limit. This means that the allegation at 3(2) which occurs in July 2023 was out of time as at the 30 October 2023 and the claimant is asking for it to be included some 17 months later in her application dated 10 April 2025. The allegation at 3(3) which occurs in August and September 2023 was out of time as at 30 December 2023 and the claimant is asking for it to be included some 16 months later.
260. My discretion to extend the time limit on a just and equitable basis is a wide one. However, it is the exception not the rule. It must be justified. The claimant has to convince the Tribunal that it is just and equitable to extend the time limit ie the burden of proof is on her not the respondent.
261. In making my decision I considered the following: Firstly, the length of delay. The time it took for the claimant to make the allegation was considerable, over a year for both allegations. The claimant says the reason for this delay is that she didn't want to bring a claim at the time ie in 2023 because she was hoping that she could come back to her job. She didn't want to do anything to upset that. She loved her job and wanted to return to it. She was hopeful that she could get clarity during her maternity leave about the role she was returning to. I find that the claimant when giving her evidence was consistent on this point (eg reference to the email to HP about her pregnancy experience in March 2024.) but it is not a sufficient reason for the length of the delay. The length of time is considerable and causes difficulties for the respondent.
262. Secondly, what advice did the claimant seek. The claimant is a graduate, familiar with using the internet, undertaking research and knew how to conduct searches on the internet. The claimant told me that she was a litigant in person, did not know the law, could not afford to engage a lawyer. She told me that her midwife had told her to contact the Citizen's Advice Bureau in 2023. When I asked the claimant about what free advice she had sought out such as ACAS website she admitted that she had not looked there but had contacted other sources such as 'pregnant and screwed'. I noted the claimant tells Ask Jules that she is getting legal advice on 21 August 2023.
263. I accept that the claimant is a litigant in person and that discrimination law is a

complex area, but there are a large number of free resources available. The claimant's position is that she had received limited advice previously. I found the claimant to be a well-educated and intelligent woman who should have been able to make all of her allegations at the time of making lodging her ET1.

264. Thirdly, I considered the promptness of acting once the claimant knew about timelines. The claimant says once she had received better advice she acted upon it, but no evidence was produced to support when she had received this better advice.
265. I considered whether the claimant had co-operated with the respondent's requests for further information and I was not made aware of any instances of the claimant not responding to requests for information from the respondent.
266. Fourthly, I noted that the events of allegations 3(2) and 3 (3) were already known to the respondent and that the claimant was unhappy about them. The claimant had made complaints about the risk assessment when it happened, about her changing responsibilities and workload and difficulties with losing pay because of the overnight shift. However, the person from Ask Jules who conducted the risk assessment left Ask Jules's employment in March 2024. The other witnesses may be able to give background evidence in any event, but the respondent has been prejudiced by the lengthy delay in bringing these two additional complaints.
267. Complaints of discrimination are serious allegations, and the respondent is entitled to know as soon as possible what it needs to investigate and which witnesses it needs to secure. I find that the respondent would be prejudiced by having to investigate these two further allegations.
268. Lastly, I considered the balance of prejudice between both parties. The prejudice to the respondent is firstly that they will have to defend a claim that is otherwise time barred and secondly that through the passage of time the cogency of forensic evidence will have been reduced and the difficulty of getting witness evidence.
269. The prejudice to the claimant is that she would be prevented from bringing the two potentially meritorious allegations of maternity discrimination. Although I have noted that she does already have a discrimination claim which is in time so the prejudice to her is lessened because of this.
270. Having considered all of the circumstances of the case and in balancing the prejudice between the claimant and the respondent I find that there is greater prejudice to the respondent. In exercising my judicial discretion, I am not allowing the extension of time limits for allegations 3 (2) and 3(3). These two allegations although well founded are time barred and fail.

Final issue Remedy

271. The claimant had prepared an updated schedule of loss. When calculating remedy I considered the Employment Tribunal Remedies Handbook.

Remedy for unfair dismissal

What basic award is payable to the claimant, if any?

272. The claimant's date of birth was 4 October 1991 = 34 years of age = age factor of 1
1 week's gross pay for each year of employment
(start 7 sept 2020 and end 01 Oct 2024 = 3 completed years)
The claimant's gross pay = £580 .(made up of 24hrs at £15 ph (£360) and 1 live in shift at £220).
Basic Award = 3 x 1 x 580 = £1,740.00 gross

If there is a compensatory award, how much should it be? The Tribunal will decide: (1) What financial losses has the dismissal caused the claimant?

273. The claimant is claiming loss of earnings, pension and loss of statutory rights.
274. The respondent says the claimant should not be entitled to be compensated for her full wage when she had been looking to reduce her hours by removal of the night shift and for periods when she wasn't actively looking for work which was between February and March 2025.
275. I find that it is unclear what hours the claimant would have worked as these were never finally agreed. The days were discussed but there was no final position on this or the hours. Both JH and the claimant confirmed this during their oral evidence. I therefore allow for the normal weekly wage of the claimant at £580 gross/ £485.31net.

Has the claimant taken reasonable steps to replace their lost earnings, for example by looking for another job?

276. I find that the claimant has mitigated her losses in actively seeking employment which was evidenced in the bundle at pages 356/7 . However, as the respondent notes I can see that there was no evidence of looking for a job in February or March 2025. Because there is no evidence of job searches for February and March 2025 I am deducting 8 weeks.

If not, for what period of loss should the claimant be compensated?

277. The respondent says that the claimant should only be awarded loss of earning up until her resignation from her role on 30 May 2025. Looking at the claimant's medical evidence I can see that she was still suffering with her mental health at this date and had not yet started the CBT therapy. I am therefore awarding losses up to 24 February 2026 minus 8 weeks.

Is there a chance that the claimant would have been fairly dismissed anyway if a fair procedure had been followed, or for some other reason?

278. Not applicable as respondent wanted the claimant to stay.

If so, should the claimant's compensation be reduced? By how much or by what percentage?

279. Not applicable

Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?

280. Yes, I find that it did.

Did the respondent or the claimant unreasonably fail to comply with it?

281. I found that both the claimant and respondent failed to comply with the ACAS code. The respondent because they did not deal with the claimant's grievances when made orally and/or in an informal way via messages. On paper the respondent had a process, but no evidence was presented to the Tribunal that it was ever followed. The claimant, because, although I accept that she says her complaints were grievances in substance, she denied the respondent the opportunity to deal with her concerns in a more formal and structured way. By not allowing the respondent to deal with her complaint regarding her experiences during her maternity, it created the impression with the respondent that she didn't want to raise any formal grievances using the process, because she hoped things would work themselves out.

If so, is it just and equitable to increase or decrease any award payable to the claimant? By what proportion, up to 25%?

282. I am not making any increase or decrease as both the claimant and the respondent failed to comply.

Does the statutory cap of fifty-two weeks' pay or £115,115 apply? N/A

Compensatory Award

283. Immediate loss of earnings = net pay from 01 October 2024 to 24 February 2026 (date of increased salary job) = 73 weeks minus 8 weeks = 65 weeks.
Immediate loss of earnings = net pay from 01 October 2024 to 24 February 2025 = 73 weeks minus 8 weeks = 65 weeks
Net average pay = £485.31 per week x 65 = £31,545.15
Minus earnings in alternative employment = £24,318.18
(made up from Freelance work = £2,751.61, Bank Work = £17,385.75, Pheonix Learning = £4,180.82)
= loss of wages = £ 7,226.97 net
No benefit deductions or Polkey reduction or contributory fault- not pleaded

Other losses

284. Future loss of earnings = nil. The claimant was not claiming any future loss of earnings as she now earns more than her previous salary.
Loss of Pensions = £1,130.00
Using the formula as pleaded by the claimant in her schedule of loss is 1,270.20 but the correct calculation is gross weekly pay 580 x 0.03 percentage x 65 weeks = £1,131.00
Loss of statutory rights = £600
I am awarding the sum of £600 as pleaded by the claimant in her schedule of

loss.

Compensatory Award Total sum = £8,956.97 net

Basic Award Total sum = £1,740.00 gross

Grand total sum = £10,696.97

Interest

285. I considered whether to award interest. I was satisfied that this was a case where it was appropriate to award interest.

Loss period is 1 October 2024 last day at work to 6 August 2026 = 674 days

Calculation of 8% interest from mid point of date of dismissal to date of remedy hearing = 674 days with mid point being 337 days ($337 \times 0.08 \times 1/365 \times 10,696.97$) = £790.11

Total for unfair dismissal = £11,487.08

Remedy for discrimination

Should the Tribunal make a recommendation that the respondent take steps to reduce any adverse effect on the claimant? What should it recommend?

286. The claimant has asked for a discrimination course to be attended by JH. I am not minded to make that recommendation as JH was relying on Ask Jules for all HR support and advice.

What financial losses has the discrimination caused the claimant?

287. None are claimed for

Has the claimant taken reasonable steps to replace lost earnings, for example by looking for another job?

288. Yes and she now in employment

If not, for what period of loss should the claimant be compensated? N/A

What injury to feelings has the discrimination caused the claimant and how much compensation should be awarded for that?

289. Turning to injury of feelings I think it is important that I reiterate the general principles that apply in assessing an injury of feelings award and these have been set out by the Employment Appeal Tribunal in **Prison Service-v- Johnson 1997**. Mr Williams also referred me to this case in his final submissions.

290. Firstly, injury to feelings awards are compensatory and should be just to both parties, they should compensate fully without punishing the respondent, feelings of indignation at the respondent's conduct should not be allowed to inflate the award. The focus is on the actual injury suffered by the claimant and not on the gravity of the acts of the respondent.

291. Secondly, awards should not be too low as would diminish respect for the policy of the anti discrimination legislation, society has condemned discrimination and

awards must ensure that it is seen to be wrong. On the other hand, awards should be restrained as excessive awards could be seen as a way to untaxed riches.

292. Thirdly, awards should bear some broad general similarity to the range of awards in personal injury cases, not to any particular type of personal injury but to the whole range of such awards.
293. Fourthly, Tribunals should take into account the value in everyday life of the sum that they have in mind by reference to the purchasing power or by reference to earnings.
294. Fifthly, Tribunals should bear in mind the need for public respect for the levels of awards made.
295. The matters compensated for by an injury of feeling to award encompass subject feelings of upset, frustration, worry, anxiety, mental distress, fear, grief, anguish, humiliation, unhappiness, stress and depression. In *Vento* the Court of Appeal identified three broad bands of compensation for injury to feelings and gave the following guidance. I have updated the figures so when I read it it is clearer. The top band should only be awarded in the most serious cases such as where there has been a lengthy campaign of discriminatory harassment on the ground of sex or race. Only in the most exceptional cases should an award of compensation for injury to feelings exceed £58,700. The middle band should be used for serious cases which do not merit an award in the highest band, and lastly, awards in the lower band are appropriate for less serious cases such as where the act of discrimination is an isolated or one off occurrence, in general awards of less than £1,200 are to be avoided together as they risk in regard as solo as to not be a proper recognition for injuries to feelings.
296. The claimant's case is that she has suffered long term psychological harm, anxiety, panic symptoms and ongoing workplace hypervigilance. She is seeking an award at the top of the middle *Vento* band in the sum of £27,500.
297. The respondent's case is that the Tribunal must focus on the injury actually suffered and Mr Williams reminded me of the principles in **Eddie Stobart v Graham 2024 EAT**. The respondent says that any award should be in the lower band because the removal of tasks and overnight shifts were taken to ensure compliance with the respondent's health and safety obligations and because the respondent always wanted the claimant to come back to work .
298. I accept that the respondent took the actions it did as a consequence of the risk assessment and were complying with their statutory duty. However, I found that the respondent failed to review how the claimant was coping with the increased hours in longer days and the lesser hours, on more days between Stoke-on-Trent to the respondent's premises.
299. The burden of proof is on the claimant to prove the nature of her injury to feelings and its extent.
300. The claimant says in her particulars claim paper apart, that the treatment she received" *has caused her no end of stress and continues to do so*" it ruined her

pregnancy, making her feel *"immense stress and anxiety for which I was medically treated and the midwife told me to resign"* It made her feel worthless, rejected and undervalued. She said she has suffered from depression, and questioned herself, purpose and motivation. She constantly worries about money. She told me that she suffered with anxiety and stress and that the experience that she had been through had changed her. I accept that this is how the claimant truly feels.

301. In her oral evidence the claimant told me that she had 15 CBT sessions over a three month period. And that it had helped her. She was on a waiting list initially. She told me that she took propranol, a beta blocker 3 times a day and that she would bring in evidence of this but failed to do so. She confirmed that she is no longer taking beta blockers. She said that she was *"completely changed as a person"* and she told me that she has learned grounding techniques and using sleep meditation to help but still worries.
302. The evidence presented by the claimant to support her claim for injury to feelings was:
GP note 22 November 2023 states depressed mood
Maternity dept note entry for 28 Nov 2023 states the claimant is stressed and anxious regarding work . Advice given referred to SMILE and encouraged to contact citizens advice.
Maternity dept entry dated 20 December 2023 " feeling much better emotionally now has finished work and on maternity leave".
GP surgery entry dated 29 April 2025 that states the claimant showing anxiety state, has CBT scheduled, not keen on anti depressants no thoughts of self harm, requested propranolol.
Letter of resignation dated 30 May 2025 where the claimant states that she is resigning because of her mental health.
Letter from Staffordshire and Stoke-on-Trent talking therapies dated 15 July 2025 confirming 3 sessions of treatment with a wellbeing practitioner had taken place and the claimant had a problem with anxiety and an appointment was made with a CBT therapist on 12 August 2025.
303. I found that the unfavourable treatment began in July 2023 when the claimant was 3 months pregnant and ends when the claimant's employment terminates in October 2024. The claimant has a new born baby to care for and was trying to confirm with the respondent when she was returning to work and to what job.
304. The claimant did not provide any other medical evidence to support the extent of her anxiety or depression. She is no longer on medication. I do not feel that this falls within the higher band. I then considered whether it should fall within the middle band as stated by the claimant in her schedule of loss. I considered it appropriate that it fell within the lower to middle of the middle band and accordingly I am awarding a figure of £12,000.00 for injury to feelings.
305. Although I have made findings on allegations 3(2) and 3(3), those allegations were dismissed as out of time. The injury to feelings award is therefore assessed by reference to allegation 3(1) alone.
306. I am not making any ACAS Adjustment for the same reasons as stated above.

Interest

307. I considered it appropriate to award interest.

Injury to feelings is mid point of discriminatory act to 6 Augst 2026 at the rate of 0.08%

I have used at the date of the discriminatory act of 19 August 2024 (the date when JH told the claimant that her role was predominately care)
The number of days to hearing is 717 days x 8% = $717 \times 0.08 \times 1/365 \times 12,000 =$
£1,885.81 interest

Total injury to feelings award is £13,885.81

Plus, unfair dismissal of £11,487.08

Grand total of £25,372.89

Approved by:

Employment Judge Dennehy

27 August 2026

JUDGMENT SENT TO THE PARTIES ON

17 September 2026

FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision. If written reasons are provided they will be placed online.

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

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

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