



EMPLOYMENT TRIBUNALS

Claimant: Miss S Greenidge

Respondent: Manchester City Council

Heard at: Manchester

On: 22-25 June 2026
In chambers 7 July 2026

Before: Employment Judge Dunlop

Representation

Claimant: Mr A Pickett (Counsel)

Respondent: Mr M Todd (Counsel)

RESERVED JUDGMENT

1. The claimant's complaint of failure to make reasonable adjustments under ss.20-21 Equality Act 2010 succeeds in part. To the extent that that claim was presented out of time, the Tribunal considers it was presented within such further period as is just and equitable.
2. The claimant's claim of indirect discrimination under s.19 Equality Act 2010 succeeds. To the extent that that claim was presented out of time, the Tribunal considers it was presented within such further period as is just and equitable.
3. The matter will proceed to a remedy hearing.

FULL REASONS

Introduction

1. Miss Greenidge commenced work for the respondent, Manchester City Council ("the Council") in March 2017, working within its Leaving Care team. In March 2023 she began to develop symptoms which would lead to a diagnosis, in September 2023, of rheumatoid arthritis ("RA"). It is now accepted that she became a disabled person within the meaning of s.6 Equality Act 2010 ("EqA") as a result of this condition. This claim is largely about whether the Council fulfilled its duty under ss.20-21 EA to make

reasonable adjustments for Miss Greenidge, although there is also an indirect discrimination claim under s.19 EqA. Miss Greenidge remains employed by the respondent, although she is currently absent on sick leave.

The Hearing

2. This was an in-person hearing. The parties had prepared an agreed bundle of documents totaling 855 pages. I had regard only to those pages which were referred to in the witness statements or during cross-examination. Two further documents relating to the redeployment process were disclosed by the respondent on the morning of day 3.
3. I heard evidence firstly from Miss Greenidge. I then heard evidence on behalf of the council from the following individuals:
 - (a) Michelle Stott, who was the manager of the Leaving Care service and Miss Greenidge's line manager for much of the period in question;
 - (b) Jane Suthers, who was the Team Manager for Supported Lodgings and 16+ Pathways, and who managed Miss Greenidge during a secondment period, described further below;
 - (c) Sarah McEntee, who was the Service Lead for Leaving Care, and Ms Stott's manager.
4. On the morning of day 4, I heard oral submissions from Mr Pickett and Mr Todd. They also submitted an agreed joint note summarising the relevant legal authorities.
5. I had intended to give an oral Judgment on Friday 26 June, which was listed as day 5 of the hearing. Unfortunately, I was unable to sit on 26 June due to unforeseen personal circumstances and therefore reserved the decision, sitting in chambers on 7 July 2026 in order to reach my decision.

The Issues

6. There was a preliminary hearing before Employment Judge Feeney on 12 March 2025 and an agreed List of Issues was attached to the case management summary. The parties presented an agreed updated version of that List at the start of the hearing, and I have reproduced that version as an appendix to this Judgment.
7. In reproducing the List of Issues I have omitted the section dealing with disability status, as this is now conceded. I have also omitted the section dealing with remedy, as that was not determined during this hearing. There was some debate during the hearing as to whether the PCPs were appropriately phrased, this is discussed further below.

Findings of Fact

Diagnosis, absence, and occupational health recommendations

8. Miss Greenidge's substantive role was as a personal advisor ("PA") within the council's Leaving Care team, providing support to young people who had been 'looked after children' for whom the council holds statutory parental responsibility. The Council has a statutory duty to provide a PA to support relevant young people when they are aged 18-21. The caseload

carried by the PAs working for the Council at the relevant time was around 25-30 young people per PA. Their role is to provide support and guidance to the young person and to act as the lead professional in liaising between different in-house and external services e.g. health, education and housing. The role is an active role, with a significant amount of time spent visiting young people in their homes and, potentially, attending other settings.

9. When not visiting, the PAs could work from the Beehive, a council facility for leaving care team and service users, which provided shared office space as well as social areas and residential flats for care leavers. They tended to work from the Beehive one day per week (Wednesday) with the remainder of the week being split between visits and working from home.
10. There were no concerns with Miss Greenidge's performance in the role, and she found it enjoyable and fulfilling, until she began to experience RA symptoms around March 2023.
11. Miss Greenidge's symptoms progressed quickly from joint pain in her fingers and wrists, to inflammation in her feet and knees which affected her mobility, and then to pain and stiffness in her back and neck which made it difficult to stand. She obtained some relief from prescribed painkillers, but the side effects of these included daily pain, fatigue and nausea. She commenced a long-term sickness absence in June 2023.
12. Following diagnosis in September 2023, Miss Greenidge began to receive steroid injections which helped to manage her RA symptoms, but led to a difficult range of side effects including nausea, insomnia, low mood and heightened anxiety. Understandably, she also struggled mentally with the impact of a diagnosis of this serious and life-long autoimmune condition.
13. In November 2023 Miss Greenidge was able to commence taking methotrexate (an immunosuppressant drug). She felt improvement in her symptoms after approximately three months of taking that drug, although continued to experience joint pain and stiffness.
14. Somewhat surprisingly, there is no occupational health ("OH") report prior to 2 October 2023. Absence Management Review ("AMR") notes from the summer period suggest that Ms Stott was going to make a referral, but this does not appear to have happened.
15. The 2 October OH report follows a consultation taking place on the same day. This report provides an estimated return to work date of 12 December, but notes that that date is not expected to be accurate and is provided for the purpose of completing the report only. It confirms that Miss Greenidge's condition is "unstable" and that she is under the care of a consultant, and recommends a further referral when her symptoms are better controlled.
16. A further consultation occurred on 8 November 2023, and there is a report produced on the same date. This noted some stabilisation in Miss Greenidge's condition, but, again, recommended a further review.
17. A further consultation occurred on 21 November 2023, and there is a report produced on the same date. That report notes that Miss Greenidge had commenced immunosuppressant therapy and that it can take up to three

months for a patient to feel the full benefit of that medication. The report nevertheless advises that Miss Greenidge is fit to return to work with adjustments. The adjustments advised were:

- (a) A temporary restriction whereby Miss Greenidge would not be required to do home visits for 10-12 weeks;
- (b) An extended phased return involving working 1 day per week for 10-12 weeks, with a subsequent build up 'as tolerated'.
- (c) Regular rest breaks
- (d) Dictation software

18. The report further recommended a full display screen equipment work station assessment upon return to work, which would potentially identify other adjustments/aids to assist Miss Greenidge whilst completing desk-based work. It recommended that later starts might be of assistance. Finally, it was suggested that if restricting home visits was not operationally feasible then redeployment into a sedentary role should be considered.

19. An AMR meeting took place on 23 November. The notes of this meeting record that Miss Greenidge's current medical certificate expired on 27 December, and that she would be returning from that date on a phased return "*with the support of recommendations from [OH]*". Miss Greenidge complains in her witness statement that she wanted to return earlier, but the Council insisted on holding her to her sickness certificate, but this complaint does not form part of the claim before the Tribunal.

20. In the period between 21 November and 27 December 2023 nothing was done to communicate with Miss Greenidge about how a return to work could be accommodated in line with the OH recommendations, or to arrange for dictation software, a desktop assessment or anything to advance practical arrangements for a return to work. This was despite attempts by Miss Greenidge herself to move the position forward and try to ensure that arrangements were put in place – for example by proactively emailing Matthew Maitland, the relevant HR business partner.

21. Mr Maitland was, however, without the involvement or knowledge of Miss Greenidge, seeking 'clarification' of the OH recommendations. In an email chain commencing 5 December 2023 he queried whether the report meant only one day per week for 10-12 weeks, or whether it meant starting at 1 day per week and ramping up to full time over 10-12 weeks. In my judgment, it is quite clear from the report that it is the former scenario which is proposed, with a further ramp up at the end of the 10-12 week period, if tolerated. Further, the 10-12 weeks is not a figure plucked from the air. The report provides justification for the suggested approach when it is noted that it may take up to three months for the medication Miss Greenidge has commenced to have its full effect.

22. On 18 December 2023, the clinician who authored the report provided an email response to Mr Maitland's request for clarification. In that response, it is confirmed that there is to be a steady period of restricted duties for 10-12 weeks, followed by a subsequent ramp up period. Again, the email explicitly ties this to the three-month period for the immunosuppressant therapy to take effect. Confusingly, however, the restricted hours period is now recommended to be at 2 days per week, rather than 1 day per week, with no acknowledgment that this is a change from the original recommendation,

nor reason given for the change. Having sought clarification of a report which appeared to be clear on its face, the respondent, for some reason, sought no clarification of the direct conflict between the one-day-per-week and two-days-per-week recommendations that it had now received from its occupational health provider. (As neither Mr Maitland nor the clinician gave evidence to the Tribunal, they could not be asked for an explanation.)

Return to work in Leaving Care

23. On 27 December 2023 Miss Greenidge attended a meeting with Ms Stott and Ms McEntee. Ms Stott had had a period of ill-health absence herself in the lead-up to this meeting, and Ms McEntee had been liaising with Mr Maitland. She attended the meeting as part of handing back management responsibility for Miss Greenidge's return to work to Ms Stott.
24. Ms McEntee informed Miss Greenidge during the meeting that the recommendation for an extended period of restricted hours was "not good enough for service delivery". Miss Greenidge attempted to explain during the meeting the restrictions caused by her condition and why the requirement for a sustained period of limited hours was medically necessary. She provided an 'Employer's Guide' booklet from the National Rheumatoid Arthritis Society. There is a dispute as to whether Ms McEntee passed the booklet to Ms Stott in a 'dismissive' way. I do not need to specifically resolve that dispute, but I do make a finding that, looking at the totality, Miss Greenidge felt with some justification that Ms Stott and Ms McEntee did not understand the severity of her diagnosis and were not really interested in establishing whether it would realistically be possible for her to return to her substantive role, and what it would take for that to be achieved.
25. On 3 January 2024, Miss Greenidge was sent a very basic return to work plan by Ms Stott. The plan outlined a ramped phased return over 8 weeks, starting at 2 days per week and reaching 5 days per week by week 7. There was no detail included in the plan as to start and finish times, caseload, home visits, work location (home vs. office), dictation software or plans for workstation assessment either at home or in the office. There was nothing about how progress would be reviewed or what check-ins would take place. There was no rationale given as to why the temporary restriction to hours recommended by occupational health could not be accommodated. The plan was sent as an attachment to an email and the email itself had no content. This communication was both perfunctory and callous. It certainly does not convey that the organisation was genuine about attempting to rehabilitate back into work an employee who is coming to terms with managing a serious diagnosis.
26. The respondent's evidence as to why the temporary restriction to hours could not be accommodated was very unsatisfactory. In Ms Stott's statement (paragraph 19) she simply stated that the recommendation "*could not be accommodated by the service*" and went on to say that the advice of HR was that a phased return was intended to be a gradual increase in hours with the aim of returning to work full time by the end of the period and the recommendation of 1 day per week for 12 weeks would "*not have helped Sophie to do this*". Whilst this is an accurate description of what normally happens in a phased return it does not engage at all with the fact that a

specific medical reason had been given as to why a temporary restriction in duties was required in this case for 10-12 weeks, and why there was good reason to suppose that a successful phased return could follow in due course. Later in the statement (paragraph 27) it is noted that the service was paying for an agency worker to cover Miss Greenidge's role. That is the only reason given why the service "*could not accommodate*" the proposed temporary restricted hours adjustment.

27. When questioned further during the hearing, Ms Stott was unable to give any information about the actual cost of the agency cover, nor about the team budgets in general. She said that there were "*other matters*" contributing to the decision but was unable to identify what these were and that would be "*something for my manager*". She also said that it was necessary for each PA to carry a caseload of 28 care leavers and that could not be done on one or two days per week. She said that the decision as to what adjustments could be accommodated was not for her, but was for her manager (Ms McEntee) and HR. She confirmed that agency staff cover had continued to be used by the respondent during the period we are concerned with in this case, and that the Leaving Care department had also covered Miss Greenidge's employment costs when she was seconded away to other roles (as discussed further below). In response to a question from me as to whether there could have been a discussion with Miss Greenidge about her working on reduced hours for commensurately reduced pay for a period, Ms Stott suggested that that would not be possible as the Council had "*no facility*" to pay a salaried employee on the basis of hours worked.
28. In Ms McEntee's statement, she gave evidence that she had met with Mr Matiland to discuss the return to work plan and occupational health advice on 20 December 2023. She records that the recommendation of 1 day per week for 10-12 weeks did not meet the needs of the service. She does not explain why. She does not comment on whether a temporary restricted hours period of 2 days per week for 10-12 weeks could be accommodated, although the strong implication is that it could not, as she states that she explained to Miss Greenidge in the 27 December meeting that the plan needed to be progressive. Again, there is no explanation offered as to why the plan "needed" to be progressive, particularly in circumstances where the restrictions proposed were temporary, with a further (progressive) plan envisaged to be appropriate thereafter.
29. In her oral evidence, Ms McEntee stated bluntly that Ms Stott had been wrong to suggest that cost played any part in the decision. She stated that the decision that the return to work plan must be progressive had been made by her on advice from HR. Having excluded cost, however, she could give no real explanation for why she (or HR) determined that return must be progressive.
30. In cross-examination, it was suggested that Miss Greenidge could have been given a reduced caseload of around 5 cases, and worked the equivalent of one day per week on a flexible basis. Ms McEntee's response was that that could 'possibly' have happened, but that it wouldn't be within her remit to look into it as Ms Stott was the relevant manager.
31. During January 2024 Miss Greenidge completed an Access to Work application. She did this with the assistance of family members, as she was

struggling to manage typing. No support was offered with this from the respondent.

32. There is documentation in the bundle dated 9 January 2024, showing a quotation from Bennett Workplace to provide a face-to-face workstation assessment for Miss Greenidge. I am told that Bennetts holds the council's contract to provide adaptive equipment to those employees who need it. There is an email from Ms Stott dated 16 January 2024 to a business support address requesting that the invoice is paid. There is no evidence (at least that I have been directed to) of the invoice being paid, or of the assessment being carried out, or of any attempts being made to arrange for it to be carried out. It is common, in cases involving physical impairments such as RA, for a professional assessment to result in a suite of recommendations including (typically) ergonomic furniture and IT equipment, and sometimes dictation software, and for equipment to then be sourced in accordance with the assessment recommendations. This is particularly the case for large employers and the fact that the council had a contract for this sort of work to be done suggests that arrangements were in place for it. However, none of this equipment was identified and put in place for the start of Miss Greenidge's return to work in January 2024. Nor, as it turned out, was it put in place at anytime thereafter.
33. On 9 January 2024 Miss Greenidge submitted a grievance.
34. On 10 January 2024 a meeting took place between Miss Greenidge, Ms Stott, and Mr Maitland. (There was also a colleague and a TU representative present for support.) In this meeting Miss Greenidge stated that the OH recommendations were not being followed in relation to the phased return and Mr Maitland re-affirmed the respondent's position on this. When Ms Greenidge asked for an explanation as to why the recommendations could not be accommodated, Ms Stott stated that the service would need to pay someone to cover the role. (This is obviously consistent with Ms Stott's evidence to this Tribunal, although not with Ms McEntee's evidence, as noted above). Ms Stott further noted that Miss Greenidge could be deployed to do work on data protection Subject Access Requests (SARs) in the short term, but only on the understanding that her hours would increase. Miss Greenidge commented that she felt she would not be able to do the PA role in long term and asked to be medically redeployed. She stated that she did not feel that she was being supported by the service. Mr Maitland said that she could not be medically redeployed on a full-time basis if she was only able to work 2 days per week for the first 10-12 weeks.
35. (It is worth noting that, at this point, Miss Greenidge had been taking the immunosuppressant medication since November, and therefore at least around 6 weeks. Nobody at the respondent really seems to have engaged with the fact that the 10-12 week period was a fixed period for that medication to take effect and for side-effects to subside, following which a better assessment could be made of Miss Greenidge's long-term capabilities. The need for a 10-12 week adjustment was therefore reducing as time ran on.)
36. There was an exchange of emails between Miss Greenidge and Ms Stott on 29/30 January about working in the office and Miss Greenidge being

unable to find a workstation when she had attempted to do a day in the office. There was no practical support offered by Ms Stott.

37. On 31 January 2024 Miss Greenidge underwent a Health & Safety Risk Assessment conducted by one of the respondent's Health & Safety officers. That assessment identified the need for a Bennet's workplace assessment, an Access to Work referral and Workplace Passport and a varied work plan in writing. None of these things are adjustments in themselves, but they are helpful tools to identify adjustments that might be needed and ensure that they are followed through. There has been no credible explanation why the respondent could not have commissioned these assessments in November, when Miss Greenidge's return to work was anticipated or (in the case of something like Access to Work which the claimant had to access) signposted Miss Greenidge to do this and supported her. There is nothing to explain why the Bennetts assessment which Ms Stott had asked to be approved weeks earlier on 9 January had not gone ahead, nor why (as it transpired) it did not then go ahead subsequent to this risk assessment.
38. On 2 February, Ms Stott emailed Ms Greenidge following up on the risk assessment which had been conducted. Ms Stott noted in this email that she was worried about what work Ms Greenidge could undertake, and suggests that one thing she might be able to do was undertake SARs (Data Protection Subject Access Requests). She explained in evidence that there was a team from the council who dealt with all SARs enquiries and had a backlog. When there was capacity in the Leaving Care team, managers sought to take on SARs that had come in from care leavers seeking records from their time in care, because they felt that there was a value in enabling those people to obtain their records in a shorter time frame than the usual backlog would allow for, and also a broader benefit in alleviating some of the work on the SARs team itself. This work was desk-based and could be conducted at a pace Miss Greenidge could manage. In the email, Ms Stott notes that there would be no expectation for Miss Greenidge to actually start that work "until your work based equipment was in place". In fact, as I have said, the "work based equipment" was never put in place.

The House Project

39. Given that Miss Greenidge had no caseload, and it was not proposed that she undertake a caseload during the phased return, there was a difficulty for Ms Stott in finding work for her to do, other than the SARs tasks and some training. A proposal came about (its origins are unclear on the evidence) for her to be seconded to undertake work for The House Project, a workstream designed specifically to support care leavers to become ready to take on a housing tenancy and secure their own properties. She was seconded to the project from around 12 February 2024 for three months. Miss Greenidge worked directly underneath a manager called Rachelann, who had left the service by the time of these proceedings, but some evidence was given about this placement by Jane Suthers, who was Rachelann's manager.
40. No handover was provided from Ms Stott and Ms McEntee to the House Project managers. Clearly, there would have had to be agreement from Miss Greenidge to her condition being discussed, but this was never sought.

Neither Ms Stott and Ms McEntee remained involved in any meetings, or any on-going contact with Miss Greenidge, despite the fact that she remained a substantive employee of their service and was, at least in theory, going to be returning following the conclusion of the secondment. Nobody took responsibility for progressing the sourcing of specialist equipment (including chasing the Bennetts assessment), despite the fact that broadly the same set-up would be needed for any office-based work Miss Greenidge was going to end up undertaking for the council (and the equipment could obviously have moved with her).

41. More positively, there were no difficulties with working hours during this secondment. Ms Greenidge initially worked 4 days per week in accordance with her phased return. By agreement, she then used accrued annual leave at a rate of one day per week, to sustain working for 4 days for the remainder of the secondment period. The fact that she was able to sustain working on a 4-day per week basis is in line with the fact that three month settling period for the treatment regime was coming to an end, and also in line with the fact that this was a more sedentary role, which Miss Greenidge was largely able to complete from home. Although there had been no workstation assessment at home, Miss Greenidge explained that she was able to make her own makeshift adjustments, such as using cushions to support her arms, to enable her to work more comfortably.

Staying Close

42. In March 2024 Miss Greenidge was informed by Ms Suthers that there may be a role becoming available as a Coordinator within the Council's 'Staying Close' service. Staying Close works with care leavers both in the 18-21 age group (to whom the council still owed statutory duties, and who would have a PA as their lead professional) and also in the 22-25 age group. It is predominantly focused on helping young people to access housing. This service also operated on a case allocation basis, with Coordinators holding a caseload of 10-15 young people at any one time. The lower case load, combined with not being the lead professional, meant that a sustained focus could be given to addressing access to housing.
43. With Mr Maitland having refused her request for the respondent to consider medical redeployment, Miss Greenidge felt that she was not being supported to look for alternative roles, but left to do this herself, with no meaningful help. She was required to complete a formal application and interview for the role within a short timeframe, which caused her stress and pressure. She had also expressed to Laura Franklin, the service lead, that she would be unable to undertake the role if it involved significant regular travel. Miss Greenidge assumed that Ms Franklin would have been briefed about her disability, as she also oversaw the House Project. In fact, there had been no briefing provided to anyone by Ms Stott and Ms McEntee, nor did Ms Suthers, Rachelann, or anyone else provide an onward briefing from the House Project.
44. Miss Greenidge moved across to Staying Close around early June 2024. As with the secondment to the House Project, there is a lack of documentation around this move. A first supervision meeting took place between Miss Greenidge and Ms Franklin on 13 June 2024 and the notes are contained in the bundle. (Ms Franklin did not give evidence in these

proceedings.)

45. The notes record that *"Laura was unaware that Sophia has a disability as this wasn't shared by anyone when she moved across to Staying Close"*. They go on to record brief details of Miss Greenidge's illness and her limitations, which she had to explain from scratch to her new manager, despite a significant history of corporate knowledge, the input from occupational health and the various assessments that had been carried out.
46. It was Miss Greenidge's evidence that Ms Franklin expressed concern in the meeting about her ability to cope with the role in view of her health conditions. She described the role as *"very challenging"* and expressed a concern that Miss Greenidge had been *"set up to fail"*. I accept Miss Greenidge's evidence as to what was said in this meeting in circumstances where Ms Franklin was not called to give evidence and where there is nothing in the documents which contradicts Miss Greenidge's assertion. Generally, I found Miss Greenidge to be a careful and credible witness whose evidence on matters of fact was not undermined in any significant way during the course of her cross-examination. There is no reason to believe that these comments were not made.
47. Miss Greenidge also gives evidence of a further conversation she had with an unnamed colleague at Staying Close, who told her that the coordinator role could involve travelling outside Manchester as some of the young people may still be receiving support from the Council despite having moved out of the area. The possibility of travelling as far as Scotland was mentioned. Ms Greenidge later checked this with Ms Franklin and that possibility was confirmed. I accept Miss Greenidge's evidence that she was told these things, and that it made her very concerned as to whether she could realistically do that role. There is no suggestion that Miss Greenidge herself was ever actually required to go to Scotland, or even asked to do so. I accept however, that the prospect of being required to hold a geographically widespread case load caused Miss Greenidge a great deal of anxiety as she believed it was incompatible with her need to manage her RA and look after her health.
48. Ms Greenidge subsequently commenced sick leave on 27 June 2024. In an email exchange on that date, Ms Franklin proposed following up with Access to Work to see what adjustments they could suggest, or using the respondent's 'mpeople' programme to explore medical redeployment. There was no discussion of the role played by caseload or suggestion that adjustments could be made to that e.g. that Miss Greenidge's caseload could be tailored so as to restrict her to local travel only.
49. There was some subsequent correspondence with Ms Franklin regarding Miss Greenidge's sickness absence, and an occupational health referral in August 2024. That referral notes that Miss Greenidge had been experiencing significant flare ups in her condition. Miss Greenidge attributes these flare ups, at least in part, to the difficulties she was experiencing at work. I make no findings as to any causal link at this stage in the proceedings, but merely note that it is clear that Miss Greenidge was experiencing significant health problems at this stage. The occupational health conclusion was that she was not fit for her current job.

50. Miss Greenidge's evidence is that she has heard nothing from her employer since August 2024. She remains employed, although she is no longer in receipt of any sick pay. She submitted this claim in September 2024. Mr Pickett suggested that I should draw inferences from this lack of communication as to the respondent's attitude and general approach to disabled employees and to Miss Greenidge in particular. Whilst the existing situation is clearly very unsatisfactory, I decline to draw any inferences in circumstances where it is not the period with which I am concerned in this claim, and the commencement of litigation between the parties may provide explanation, or at least context, for a lack of direct communication from the claimant's managers in the intervening period.

51. On 9 August 2024, after Miss Greenidge had commenced sick leave, she received a response for her application to Access to Work. It appears that that was not the application made in January (or, at least, that the application had been subsequently updated) because it refers to Laura Franklin who had only been involved with Miss Greenidge since approximately mid-June. The response provided that grant funding would be given for the following items, disability awareness training, an ergonomic mouse, an ergonomic keyboard, Dragon (speech to text) software, Dragon training, an ergonomic office chair, a standing desk, a laptop riser, a rocking footrest and a mobility walker. The total cost of these items was listed as £2,992.32, of which Access to Work would contribute £1,641.62. As Miss Greenidge has remained absent from work I understand these items were never purchased.

Relevant Legal Principles

52. I am grateful to the representatives for their joint note on legal authorities which covered the principles set out below.

Reasonable Adjustments

53. Where an employee is disabled within the meaning of s.6 EqA, their employer may come under a legal duty to make reasonable adjustments. This duty is set out in ss.20-21 EqA, which provide as follows:

20 Duty to make adjustments

- (1) Where this Act imposes a duty to make reasonable adjustments on a person, this section, sections 21 and 22 and the applicable Schedule apply; and for those purposes, a person on whom the duty is imposed is referred to as A.**
- (2) The duty comprises the following three requirements.**
- (3) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.**
- (4) The second requirement is a requirement, where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.**
- (5) The third requirement is a requirement, where a disabled person would, but for the provisions of an auxiliary aid, be put at a substantial disadvantage in relation to a**

relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid.

(6)-(13)...

21 Failure to comply with duty

- (1) A failure to comply with the first, second or third requirement is a failure to comply with a duty to make reasonable adjustments.
- (2) A discriminates against a disabled person if A fails to comply with that duty in relation to that person.
- (3) [...]

54. There is further guidance provided by the 2011 Code, to which we have had regard.

55. The duty to make reasonable adjustments arises by operation of law, it is not essential for the claimant herself to identify what should have been done, although usually this will be the basis on which a claim arises (**Cosgrove v Caesar and Howie [2001] IRLR 653 (EAT)**).

56. The duty to make reasonable adjustments does not extend to a duty to consult and consultation/assessment is not, of itself, an adjustment. "[t]he only question is, objectively, whether the employer has complied with his obligations or not", ... whilst, as we have emphasised, it will always be good practice for the employer to consult and it will potentially jeopardise the employer's legal position if he does not do so—because the employer cannot use the lack of knowledge that would have resulted from consultation as a shield to defend a complaint that he has not made reasonable adjustments—there is no separate and distinct duty of this kind".

Elias J (at paras 71 and 72) **Tarbuck v Sainsbury Supermarkets Ltd [2006] IRLR 664, EAT**.

57. **Tarbuck** is also authority for the proposition that adjustments that do not have the effect of alleviating the disabled person's disadvantage are not reasonable, although where there is uncertainty as to whether or not a proposed adjustment will be effective, it may still be reasonable to take that step. The uncertainty is one of the factors to be weighed in the balance. (**Griffiths v Secretary of State for Work and Pensions [2017] ICR 160, CA**).

58. Guidance as to the extent to which cost should factor into a decision as to the reasonableness of a proposed adjustment, or suite of adjustments, was provided by the EAT in **Cordell v Foreign and Commonwealth Office 2012 ICR 280**. In summary, it is permissible to take cost into account in determining whether adjustments are reasonable. This is a factor to be balanced alongside the likely efficacy of the adjustments and other factors (such as disruption to colleagues etc) which the Tribunal considers relevant in an individual case.

Time Limits

59. Section 123 Equality Act 2010 sets out the time limits for bringing a complaint of unlawful discrimination in the Employment Tribunal. It provides as follows:

(1) Subject to section 140B proceedings on a complaint within section 120 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.

(2) [Omitted]

(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.

(4) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—

- (a) when P does an act inconsistent with doing it, or
- (b) if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.

60. Where a Tribunal finds that there were reasonable adjustments that should have been made by an employer, it must go on to identify a timeframe within which they should have been made. (**Secretary of State for Work and Pensions v Wakefield EAT 0435/09**).

61. The operation of the time limit provisions in the EA lead to a counter-intuitive situation where it may be in the interests of a claimant to argue that the respondent ought to have made the adjustments at a later date, and in the interests of the respondent to argue that they ought to have been made (if at all) at an earlier date. (See **Fernandes v Department for Work and Pensions 2023 EAT**, **Cast v Croydon College [1998] IRLR 318** and **Hull City Council v Matuszowicz 2009 ICR 1170, CA**, and the principles more fully referred to in the parties' joint note).

Indirect discrimination

62. Unhelpfully, the note of authorities provided by the representatives made no reference to indirect discrimination, and it was touched on only very briefly in oral submissions.

63. Section 19 EA states:

19 Indirect discrimination

(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.

(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—

- (a) A applies, or would apply, it to persons with whom B does not share the characteristic,

(b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,

(c) it puts, or would put, B at that disadvantage, and

(d) A cannot show it to be a proportionate means of achieving a legitimate aim.

64. Disability is a relevant protected characteristic, as identified in s.19(3). S.6(3)(b) EA clarifies that reference to persons who share a protected characteristic means, in the context of disability, persons who have the same disability.

65. The concept of indirect discrimination generally has a limited role to play in disability cases, as many complaints which might be expressed in this way are more conveniently expressed as s.15 claims.

66. In **Chief Constable of West Yorkshire Police v Homer [2012] ICR 704 (SC)** Baroness Hale explained that the purpose of these provisions is to “level the playing field” by requiring employers to justify requirements which are ostensibly neutral but which, in reality, work to the disadvantage of people with a particular characteristic.

67. The claimant carries the burden of proof of showing that there was a PCP, that it disadvantaged a particular group in general, and that it disadvantaged the claimant in particular. The respondent then carries the burden of proof in respect of any justification defence **Dziedziak v Future Electronics Ltd EAT 0271/11**.

68. In considering the scope of the pool of people affected by a PCP, it will generally be appropriate to consider all of the people who could access the job or benefit if the PCP were not taken into account – **University of Manchester v Jones [1993] ICR 474**.

Submissions

69. For the respondent, Mr Todd urged me to look at the steps taken by the respondent in a holistic way. He emphasised that a phased return had been offered and put in place. The only reason it didn't come to fruition was because of the move to another role. He noted that the claimant's duties were, in practice, adjusted because she was given no caseload. He acknowledged that communication could have been better, but argued that the respondent was taking a flexible approach responding to the situation on the ground.

70. Mr Todd acknowledged that the respondent had put a lower limit on the number of days which could be done over the course of a phased return. He submitted it was standard to do so. He sought to justify the imposition of a progressive phased return on the basis that the role is a relational one, reminding me that young people don't simply have problems arising one day a week. He also reminded me that the respondent has statutory obligations towards those young people which in practice are fulfilled by the

PA. In that context, he argued that the insistence on a progressive return was reasonable.

71. Mr Todd noted that the move to the House Project was an agreed adjustment and that Miss Greenidge had wanted to move because she felt it would be a more accommodating role, and the respondent deserved credit for facilitating that quickly.
72. In relation to medical redeployment, Mr Todd accepted the PCP as put in the list of issues. He said the medical route within the mpeople scheme required the employee to be unable to do their job and said that medical redeployment would have been considered following the end of the House Project secondment if Miss Greenidge had not secured the role in Staying Close.
73. In relation to travel, Mr Todd submitted that Miss Greenidge was never required to go to Scotland and that travelled to Oldham or Bolton could not be said to cause a substantial disadvantage.
74. In relation to equipment, Mr Todd emphasised that Miss Greenidge had never identified the equipment that she needed. He submitted that the claim was based on a retrospective identification produced as a result of the Access to Work reports from August 2024. He suggested that if this equipment had genuinely been needed, Miss Greenidge would have identified it herself at an earlier date. Further, the specific equipment was not identified in the PCP as set out in the agreed list of issues.
75. In relation to the PCP concerning availability at the Beehive Mr Todd said that there was no disadvantage established in relation to that.
76. Mr Todd submitted it was reasonable for the council to require Miss Greenidge to work one day per week in the office, and, in particular, to come in on Wednesday alongside the rest of the team. He pointed out that she had never requested to work from home 100% of the time and that was not a requirement set out by Occupational Health. The complaint in relation to breaks, he said had not been pursued with vigour in Miss Greenidge's witness statement, and he pointed to the 2 February email from Ms Stott making the point that Ms Greenidge should take breaks when required. Mr Todd's position was that this was not like a shop floor job and Miss Greenidge was able to control for herself how many breaks she took can take them when she needed them.
77. In summary, Mr Todd's position on reasonable adjustments was that whilst the respondent could "always do more" when matters were viewed with the benefit of hindsight, Miss Greenidge's suggestions in this case were not reasonable, and the respondent needed to ensure it could provide services to care leavers in a consistent way, compliant with its statutory duties. He pointed out the time limit cut off date of 7 April 2024, and submitted that if there were findings of failures to make reasonable adjustments the Tribunal should nevertheless dismiss those claims as being out of time.
78. In respect of the indirect discrimination complaint, Mr Tood said the PCP was accepted and it was accepted that this was applied to the claimant and would be applied equally to non-disabled employees. Mr Todd submitted

that limiting the extent of a phased return was a proportionate means of achieving the legitimate aims set out in the updated List of Issues, and that the respondent could not have done anything less discriminatory to achieve its aims.

79. For Miss Greenidge, Mr Pickett invited me to focus on a wider context of failure in terms of how Miss Greenidge's situation was handled by the Council. He noted, for example, the apparent failure to Commission an OH report in June 2023, and the failure to follow up on the Bennetts workstation assessment in January 2024 and thereafter.
80. In relation to the adjustment about the hours that Miss Greenidge should work following her return to work, he submitted that the advice given by occupational health was "crystal clear" and the respondent simply did not like it. Instead, the Council had insisted on a ramp up approach to the return to work without ever providing a proper explanation (either to Miss Greenidge at the time or to the Tribunal) as to why a temporary period of restricted hours at a set level could not be accommodated.
81. Subsidiary to this, it was submitted that the Council failed to implement any meaningful adjustments in relation to the provision of equipment, and they failed to communicate the claimant's needs to the managers that ought to have been able to support her at the House Project and at Staying Close. There was an obligation, Mr Pickett says, to use the time whilst Miss Greenidge was at the House Project to make adjustments which would enable her to return in due course to her substantive role. The respondent simply made no effort to do so.
82. Mr Pickett submitted that there were "reach out" provisions within the mpeople policy which could have been used to engage Miss Greenidge with the redeployment process. The Council failed to do that and didn't invoke the medical mover process outlined on the intranet. It further failed to advise Miss Greenidge that she could opt in to mpeople and when she tried to ask for help with redeployment she received nothing in response. He points out the distress caused to Miss Greenidge of having to repeatedly explain her diagnosis and prognosis, and submitted that that had naturally led to feelings of despondency, not being valued and not being treated with dignity. He was critical of Ms Stott and Miss McEntee for their overall attitudes towards Miss Greenidge including failing to engage at all with the Employer Guide to Rheumatoid Arthritis that she had provided them with.
83. Mr Pickett then went through the specific adjustments. He acknowledged that some adjustments had been made, for example, the implementation of a phased return, but contended that those were simply insufficient. He submitted that nobody was prepared to take responsibility for the decision not to allow a stable period of temporary restricted hours and suggested that that was because it was clearly a bad decision.
84. Mr Pickett noted that Miss Greenidge's difficulties in attending the Beehive had to be seen in the context of the respondent's failure to put in place wider adjustments. She had no allocated workstation, far less an adapted workstation that would suit her needs. In those circumstances, it was reasonable of her to wish to work from home where she could work safely. In relation to time limits, Mr Pickett's position was that some of the

adjustments should have been put in place at an early stage. In particular he identified that speech to text software had been mentioned in the initial occupational health reports. The failures, he submitted, amounted to a pattern, and the claimant was therefore in time. To the extent that parts were out of time, Miss Greenidge had acted promptly and it would be just and equitable for the Tribunal to extend time.

85. Mr Pickett's short submission on indirect discrimination was that that complaint goes hand in glove with the reasonable adjustments claim. He acknowledged that the respondent had legitimate aims, but argued that following the occupational health advice would be a more proportionate response.

Discussion and conclusions

86. The following discussion is structured around the agreed List of Issues (see annex).

Failure to make reasonable adjustments complaint

The return to work arrangements

87. The first PCP contended for is:
"The policy that employees be present for two days per week during a phased return."
88. As Mr Todd began to question the claimant, it appeared that he was setting up an argument that that this could not be a PCP because the structure of the phased return was a decision individual to this case, rather than a PCP of broader application. It seems to me that allowing a return to work on fewer than full contractual hours for a restricted period of time (whether on a 'ramping' or 'plateau' basis) is quite clearly something which is capable of being a reasonable adjustment in appropriate circumstances. If that claim was to be defeated on the basis that there was no PCP, that could only be because the PCP had been wrongly identified.
89. I put it to both counsel that the appropriate PCP was simply the general requirement for employees to work their contracted hours. The question would then be whether the respondent's adjustments in allowing a phased return went far enough, or whether it would have been reasonable to allow a temporary period of restricted hours before a period ramping back to full time hours, as proposed by occupational health.
90. By the point of final submissions, Mr Todd did not rely on any argument that there had been no PCP. Both counsel instead adopted the position that the respondent had placed a 'lower limit' on the number of days that could be done during a phased return, and that the plan had to include a 'ramping' element and that those two factors amounted to a PCP. It was certainly in accordance with the witness evidence that those parameters were in place. The question of whether they are adopted as a PCP, or the broader PCP I have described above is adopted, ultimately makes no difference to the outcome in this case. Given both parties were professionally represented, I have adopted their agreed position. I therefore find there was a PCP relating

to the phased return which was that it had to be 'ramped', and the ramping had to commence at a minimum of two days per week.

91. I have no hesitation in finding that this disadvantaged Miss Greenidge in the ways identified in the list of issues (by preventing and/or hindering a sustainable and safe return to work, and by exacerbating stress and anxiety and/or symptoms related to rheumatoid arthritis). This was the case because Miss Greenidge had been medically advised to work at a very reduced level for three months whilst her medication took effect. Requiring her to ramp up towards full time before the expiry of this period presented great difficulty in view of the symptoms that she was still experiencing. The stress arising out of those circumstances – particularly her feeling that clear medical advice was being disregarded and she was being pressured to perform work she was not fit to do – was a separate disadvantage in its own right which contributed to the cumulative negative impact upon her.

92. I am also satisfied that the respondent knew (or at least ought to have known) about that disadvantage, at least from the 27 December meeting when the return to work arrangements were discussed. The respondent had the benefit of the original occupational health advice, which recommended the one-day-per-week return over 12 weeks, and gave a rationale for this. The position was muddled rather than clarified by the additional advice which suggested two days per week, but remained consistent that ramping up could only take place after the extended period on short hours. Finally, it had information from Miss Greenidge about the impact of her condition and her worries about her ability to continue in the role, and the particular difficulties she faced during the initial period whilst her treatment regime became established. My finding on this point would not be any different if Miss Greenidge had not supplied the booklet with advice for employers on dealing with rheumatoid arthritis, but the fact that she did simply underlines that this respondent really did have ample information to understand the disadvantage faced by Miss Greenidge at this point.

93. The next question, therefore, is whether the respondent implemented such steps as were reasonable to avoid the disadvantage. The relevant proposed adjustments are:

Implement an extended phased return period, in line with Occupational Health Advice.

Allow the Claimant to work one day per week during her phased return.

94. I am satisfied that the claimant has shown a *prima facie* case that the provision of an extended phased return period (restricted hours for 12 weeks, followed by a ramped period) would have fully, or at least, materially, have ameliorated the disadvantage identified. She would have had the opportunity to remain 'in touch' with work, and to continue earning, whilst focusing primarily on establishing her treatment regime and adjusting to the long-term reality of her condition. In those circumstances, the burden of proof shifts to the respondent to demonstrate that the adjustment proposed was not reasonable.

95. There are several difficulties for the respondent in doing so.

96. Firstly, there is simply no evidence that the respondent engaged properly with that question at the time of making the decision. There is no rationale for the decision contained in contemporaneous documents, nor communicated to Miss Greenidge. The closest we can really come are bald assertions that phased returns have to be progressive. I have some sympathy for the view that what was described in the occupational health report was not an arrangement that can properly be called a phased return in the sense that that term is typically used and understood. However, that point does not take the respondent anywhere. There is no definitive menu of adjustments which might be reasonable. If what was being recommended was not a 'phased return' then so be it – it was still a potential adjustment which had to be considered on its merits. Instead, the response from the respondent seemed to be a bureaucratic refusal, based not on analysis or any genuine weighing-up of interests, but simply on the fact that this didn't look like the sort of phased return the respondent was used to offering.
97. Secondly – and no doubt this is related to the fact that there was no proper engagement with the question in December 2023 – the respondent's evidence about its rationale in June 2026 was vague at best and conflicting at worst. Ms Stott said it was about the cost – because working such low hours Miss Greenidge would effectively be supernumerary. However, that argument utterly falls away for two reasons – firstly, the Leaving Care team funded her secondment into another team, so they were happy to pay to have the benefit of no work from her (beyond the completion of some SARs) in circumstances where she was completing a ramped return, but not in circumstances where she was following medical advice and working minimal hours. Secondly, Ms McEntee, the budget holder, gave evidence that cost had nothing to do with it.
98. Ms McEntee's evidence focused on the needs of the service users and the fact that meetings, support needs and, indeed, emergencies for young people leaving care do not arise on a 'one day a week' basis. As a starting point, that is something which can readily be accepted, (despite the notable absence of any discussion along those lines from the contemporaneous documents). However, it is clear from what was said and written by Miss Greenidge at the time, as well as in her evidence before the Tribunal, that her concern was not so much about a strict delineation of her working hours as about caseload. She had herself proposed that the 'one day' be spread over two part-days, and it appears from the occupational health records that she actually said to them she could manage around 20% of the workload, which was then 'translated' into one day per week for the purposes of the report. I cannot say for sure whether a reduced caseload of, say, 5 young people, would have been manageable for Miss Greenidge whilst her medication regime settled and she became established back into work, nor whether that arrangement would have been workable for the service. But those were conversations that ought to have taken place, and there is at least a realistic prospect, based on the evidence I have heard, that a workable solution could have been identified. If the respondent had acknowledged and engaged with the detail of the occupational health recommendations, including the reason for identifying the 12-week period, they would also have realised that, by January, Miss Greenidge was already approximately one month into that period of medication adjustment, so the actual length of time required before, it could be hoped, that her workload

could being to be increased further, would only have been around 8 weeks at that stage.

99. I struggle to see why this sort of discussion about how to fit the sort of work done by the department around Miss Greenidge's capacity to do it was simply never undertaken by the respondent whose managers (and HR Advisors) seemed incapable of getting beyond the fact that a phased return had to be 'ramped' in order to be reasonable. I appreciate that there may have had to be careful consideration given to exactly which cases Miss Greenidge picked up – both with regard to her own difficulties with travel (the occupational health report also recommended avoided home visits for the same period), but also having regard to the need for consistency for young people as they moved through the service.

100. These discussions would also have helped to clarify the unexplained shift in the occupational health report from recommending a one-day-per-week limit, to recommending a two-day-per-week limit. That change was not acknowledged or explained in the follow-up report, and the author of the report did not appear to give evidence. On the balance of probabilities, I find it likely that the change in the recommendation to two-days-per-week was due to some sort of error or oversight and that the initial one-day-per-week recommendation was the substantive one. It would have been entirely reasonable for the respondent to probe this further, whether with OH and/or with Miss Greenidge herself. In the absence of them choosing to do so, I consider that allowing her to work a one day per week phased return would have been reasonable.

101. In conclusion, therefore, and for the reasons set out, the respondent failed in its duty to make reasonable adjustments by not altering the claimant's work pattern to facilitate an extended phased return with a period of restricted hours followed by a ramping period beginning after the three months required for her medication regime to stabilise, and by not allowing her to return to work on a one day per week basis throughout that initial period.

102. I find that it is likely (although I cannot be sure) that if the return arrangements had been made in line with the occupational health recommendations and if the auxiliary aids had been provided (see further below) Miss Greenidge could ultimately have sustained a successful return to work in her substantive PA role. The prospects of her doing so were definitely realistic enough to make the provision of these adjustments reasonable.

Potential redeployment

103. Miss Greenidge argues that she should have been medically redeployed (or at least placed on a redeployment programme) in January 2024. I do not understand her to be saying that she should have medically redeployed alongside the return to work programme recommended by occupational health. If that had been successful, she would ultimately have been able to return to her substantive role. Instead, this is an argument in the alternative, that given the respondent's refusal to make those adjustments (whether justified or not) she should have been supported to seek redeployment.

104. The PCP relied on is:
The policy that medical redeployment would be considered only after a return to the substantive role had been tried.

105. The respondent accepted that this was the rule that it had applied to Miss Greenidge, and that it amounted to a PCP.

106. I found the respondent's position as to medical redeployment very difficult to understand, probably not helped by the fact that no one from HR gave evidence and none of the witnesses appeared to be familiar with the process or the rules around it. Originally, no documents relating to the respondent's redeployment processes appeared in the bundle at all. Following me querying this position, the respondent subsequently disclosed and handed up two documents. One was a report presented for resolution by the council (and which I was told had been adopted) which provided for the approval and implementation of a framework agreement covering internal deployment of council staff (called 'mpeople'). The printed copy I had was unnumbered, but I estimate it was about 80 pages long. The document dated from 2010 and neither counsel asked me to read any of it, observing that the process 'on the ground' had moved on from what was set out in this initiating document.

107. The second document handed up was a series of screenshots from the mpeople pages of the respondent's intranet, with the aim of illustrating what the process looks like today. None of the witnesses had talked in detail about this document, due to its late disclosure. Counsel did each refer to it briefly in their submissions. In relation to medical redeployment, the following is stated:

You may need to move roles due to medical reasons. This is when you have received confirmation from our occupational health practitioner that you'll no longer be able to carry out the duties of your current role.

Moving roles is the next step after all adjustments to your current role have been considered.

I take this to be the source of the PCP described above, and accepted by the respondent. The document also contains a brief summary of the support which a medical redeployee can expect to receive. It is common ground that Miss Greenidge did not receive this support, as she was not accepted onto the medical redeployment programme. The respondent makes the point that Miss Greenidge could have accessed the mpeople programme herself. She tried to do so by emailing an address she had found online, but her enquiry was bounced back. More fundamentally, however, it is clear that an employee choosing to access the redeployment programme for their own reasons would not have the same support and prioritisation as someone accepted as a medical redeployee.

108. In my analysis, it would be artificial to separate the case in relation to redeployment from the case in relation to adjustments to the existing role. There is nothing unreasonable (and indeed it would be expected) for an employer to say that redeployment will only be considered when adjustments to a substantive role have failed, or where it is clear they will not succeed.

109. The 21 November occupational health report envisaged either that Miss Greenidge could return to temporarily amended duties or (recognising that the adjustments required were quite onerous) to an “alternative sedentary role”. It was for the respondent to assess, in conjunction with Miss Greenidge, whether the adjustments required could realistically be accommodated within the demands of the role of a leaving care PA. The respondent concluded that they could not be, because only a ramped phased return could be allowed. I have found that to be an impermissible conclusion as a matter of principle, and found that it would instead have been reasonable to make the adjustments outlined above. Strictly, therefore, the question of redeployment in January 2024 falls away.
110. However, analysing what the respondent actually did do in December 2023 and January 2024, rather than what it ought to have done, it reached a decision that the adjustments recommended by occupational health could not be accommodated. The next obvious step was to conclude that Miss Greenidge was unfit to do her substantive role (at least in the medium term). This was, in fact, foreshadowed as a potential conclusion that the respondent might reach by the occupational health report itself, which mentioned redeployment as a possibility. Having reached that conclusion, supported by occupational health, it was incumbent on the respondent, within the terms of its own policy, to allow Miss Greenidge to access the medical redeployment process. It was not open to the respondent to instead insist that Miss Greenidge return to work under an alternative package of adjustments, which were much more onerous on her than those recommended by occupational health, and use the fact that she had to ‘try’ to return on that basis to deny her access to medical redeployment.
111. There is good reason for the rule that priority is to be given to adjusting the substantive role, the difficulty is that the way it was operated in the claimant’s case – without the recommended adjustments actually being offered – led to the disadvantages identified (preventing and/or hindering a sustainable and safe return to work and exacerbating stress and anxiety and/or symptoms related to rheumatoid arthritis). Those consequences then made Miss Greenidge’s return to any role, and any reintegration with this employer, far more difficult that would have been the case had she felt like she was being listened to and supported. I find those disadvantages would have been clear to the respondent when it made the decision to firstly reject the adjustments proposed by occupational health, but then also to reject the idea of redeployment.
112. The respondent’s argument in submissions was that ‘in effect’ Miss Greenidge was redeployed because the respondent supported her secondment to the House Project and, subsequently, she was successful in her application to join Staying Close. It was said in submissions that ‘there was an expectation amongst all parties that she was not going back to Leaving Care’. But that, surely, is exactly the situation which the redeployment process is designed to address, providing support for the employee and managers, by ensuring that accurate information is provided in a timely way, that opportunities are matched to the employee in terms of both their skills and restrictions and that the stress associated with the application process is minimised or avoided. The House Project, as it

transpired, was clearly a good match, with Miss Greenidge able to work more hours than it had been envisaged she would have been able to sustain in her substantive role. The respondent does deserve credit for facilitating that move and making it happen quickly. The move to Staying Close, unfortunately, was much less successful. If Miss Greenidge had moved formally as medical redeployee then either it would have been identified that that role was simply not compatible (if, for example, it would have required her to take cases where young people were based in Scotland or similarly distant places), or that it could be adjusted in a way which would make it compatible. Neither was done – Miss Greenidge was simply left to flounder and, in that environment, her justified anxiety about the role took hold.

113. For the reasons I have discussed, I make a further finding of failure to make reasonable adjustments on the basis, as argued by the claimant, that the adjustment of offering medical redeployment ought to have been put in place in January 2024 *if* the respondent was not going to follow occupational health advice as to the return to work adjustments. However, this finding is strictly in the alternative to the finding that the respondent should have adopted the return arrangements discussed above, which I have found would have been reasonable. Acting properly, the respondent was obliged to do one or other, with priority given to adjusting the existing role. Although it is a finding in the alternative, it is important because there was, in my judgment, a realistic possibility that the return to work proposals would not have worked to rehabilitate Miss Greenidge into her substantive role, not because it was unreasonable for them to be tried, but simply because, in the long term, her health condition may have proved incompatible with the sort of work done in the PA role. For the reasons I have outlined above, I consider there would have been a duty to support Miss Greenidge to access medical redeployment if and when it did become apparent that her continuation in her substantive role was unsustainable.

114. I did not hear evidence about specific redeployment opportunities which might have been available through mpeople at that time. However, taking account of the fact that the council is an extremely large employer with a huge variety of sedentary, office-based work requiring to be undertaken, I consider there was at the very least a good probability that some acceptable redeployment opportunity could have been identified if Miss Greenidge had been given access to the scheme. This is sufficient to mean that it would be reasonable to make the adjustment of allowing her access to the scheme. More specific findings, and therefore evidence, may be required in due course as to the likely actual outcome.

Other adjustments

115. I make no findings of failure to make reasonable adjustments in respect of homeworking. It is clear that Miss Greenidge was permitted to work from home, at least to some extent, in her roles with Leaving Care, the House Project and Staying Close. The evidence is that she was required to come into work on a Wednesday with Leaving Care, but there was no real evidence in relation to the position with the other roles. I find, on the limited evidence I heard, that it was not the requirement to attend work itself which caused a disadvantage, it was the fact that, overall, the respondent was requiring the claimant to work longer hours, more quickly, than she had been medically advised (which is dealt with above) and the fact that auxiliary

aids have not been provided (which is dealt with below). There is no free-standing failure in relation to home working that I can identify on the evidence I heard.

116. Similarly, in relation to breaks, I find that Miss Greenidge was largely in control of her own pace of work. It would have been good practice for the respondent to communicate a much more detailed return to work plan, including specific provision for breaks, but I am unable to find that there was an identifiable disadvantage which arose in relation to the failure to make a formal arrangement for the claimant to have breaks, given the nature of the work she was doing. In addition, Ms Stott's email of 2 February 2025 makes clear that Miss Greenidge is to work at her own pace with "plenty of breaks." There was no evidence of lack of breaks causing a difficulty at either the House Project, or at Staying Close, and so, to the extent that any adjustment was required I find it was made, albeit informally.

117. Items 'e' and 'f' in the list proposed adjustments related to the provision of adaptive equipment. Item 'e' was expressed as "Having a DSE assessment/ providing relevant equipment". Mr Picket acknowledged that "Having a DSE assessment" was not, of itself, an adjustment, and did not rely on it. At the start of the hearing, when we clarified the List of Issues, he stated that the "relevant equipment" relied on was the items later listed in the Access to Work report of 9 August 2024, as listed in paragraph 51 above (including training on equipment where the equipment was to be provided).

118. I note, firstly, in relation to this proposed adjustment, that the relevant PCP of "requiring employees to work at a workstation whilst in the office" is somewhat difficult to understand – it was not suggested that Miss Greenidge should work other than at a work station (rather, it was suggested that workstations were not always available within the Beehive, and that more accessible workstations may have been found in other offices within the respondent's estates). However, it is not necessary to examine the difficulties with the PCP closely as the parties agreed that any requirement for adaptive equipment could properly be put under s.20(5) EqA, and would therefore not require a PCP.

119. The respondent's primary position is that it was unaware of the adaptations which might be required until the Access to Work report was received in August 2024, by which time Miss Greenidge had effectively ceased work.

120. I accept that Miss Greenidge had not previously made requests for specific items such as, for example, an ergonomic mouse or a mobility walker. However, that is the purpose of such assessments – neither an employee nor a manager who does not happen to specialise in the area of auxiliary aids, can be expected to know, other than in the broadest of terms, what specialist equipment may be available and how it may assist the employee. The respondent is, of course, right to say that the requirement to assess is not a free-standing duty (and failure to assess is not a failure to make reasonable adjustments) but it is, in some circumstances, an important step in ensuring that adjustments are identified and made.

121. It is arguable that from the point of confirmation of the rheumatoid arthritis diagnosis, active steps ought to have been taken to obtain a proper

assessment of the aids that Miss Greenidge was likely to need and to put these in place. Certainly, in the substantive OH report of 21 November 2023, a display screen equipment workstation assessment was recommended to reduce the risk of symptom aggravation by poor position and posture and dictation software was specifically mentioned as an appropriate adjustment.

122. Where an employee has a serious physical impairment which is evidently going to require substantial workstation adjustments, it is in my judgment incumbent on the employer (particularly for a large employer such as this one) to identify a particular workstation which that employee will use and to take appropriate steps to ensure that the specific adaptations and aids that are required are identified and sourced in a timely way. That simply didn't happen here, and the fact that a comprehensive list of the relevant items was not produced until August 2024 stands as an indictment of the respondent's inaction, not an excuse. I accept that there will be some actions which the employee has to take, such as instigating the access to work process, or engaging with an assessor. However, there is no evidence of Miss Greenidge ever failing to do anything which she was requested to do. Ultimately, the failure to progress the assessment, and therefore to make the adjustments, lies with the employer. It can perhaps be explained in part by the history of Miss Greenidge moving into different roles, but, ultimately, the council is one employer and it carried the duty.

123. Mr Todd also submitted that the Access to Work list was a 'belt and braces' approach and there was no specific evidence that the absence of particular items on that list disadvantaged Miss Greenidge. I can see that if the adjustments had been put into place absent, say a mouse or a footstool which was unavailable, that argument may have had some merit. It seems to me, however, that these aids have to be looked at holistically, as a package. Miss Greenidge had a fluctuating, painful physical condition and I accept her evidence that having to move around to find a workstation, and then to work with an unsuitable physical set-up exacerbated her pain on specific occasions when she attended the Beehive to work. I do not think that I have to be able to identify that it was the lack of the footstool as opposed to the laptop riser, as opposed to the ergonomic chair which caused her disadvantage on those occasions. Further, I find that the lack of any real acknowledgment from the respondent that adaptations of this broad type needed to be put in place, and the failure to do so, had a significant psychological impact on Miss Greenidge, and caused her (understandably) to feel that there was no real desire on the part of the managers in her substantive team to facilitate her return to work. This is of itself a disadvantage. If some progress had been made, but there were particular items which were not identified, or which took longer to source, that psychological disadvantage would have been absent, or at least greatly ameliorated. As it was, the absence of the package as a whole had an impact, and caused Miss Greenidge disadvantage, beyond the sum of its parts.

124. In my judgment the respondent ought to have been taking very active steps (including liaising with Miss Greenidge, tasking her clearly with any steps she had to take, and checking in on progress) to assess and put in place auxiliary aids/physical adaptations of the type outlined in the Access to Work report from, at the latest, the receipt of the 21 November occupational health report. There is no reason, for example, why the claimant could not

have been invited into work to complete a desk station assessment, prior to her formal return, so that she was not struggling with hot-desking and a non-adapted workstation at the point when she was expected to be commencing a return to work. A reasonable time period for the respondent to have identified and secured at least the majority of the items would have been, in my judgment, 12 weeks from the occupational health report of 21 November which squarely raised the need for this type of adjustment, meaning they would have been in place by late February 2024, with the claimant having the benefit of knowing that orders had been placed and steps were being taken significantly before that.

125. I therefore find that the respondent failed to provide auxiliary aids, being the items identified in paragraph 51 above, and that it ought to have done so by late February 2024.

126. Point 'f' of the adjustments suggested in the List of Issues is "Provide a suitable desk and/or equipment such as a dictation software". That has already been dealt with in the discussion above.

127. The final PCP relied upon is "requiring employees to be available at the Beehive for young people" and the adjustment contended for is "not being required to be available at the Beehive for residents". In part, the disadvantage to the claimant arising out of this PCP is identical to the disadvantage of not being able to work from home – she was either too ill to be working for the hours the respondent wanted her too, and/or her symptoms were being exacerbated by unsuitable workstations. This disadvantage is addressed by the return to work adjustments and provision of auxiliary aids which I have already found would be reasonable, and an adjustment to not be required to be at the Beehive would have been unnecessary if the primary adjustments had been made properly.

128. There is a nuance, however, to this part of the complaint, which was that Miss Greenidge was concerned about her ability to provide the engagement with young people that she believed the respondent required of her. This stems from an email exchange with Laura Franklin on 12 June 2024 when Ms Franklin wrote:

"When you are based upstairs tomorrow please can you knock on all the young people's doors and explain you are in the conference room should they need support with anything - can we also get some ideas from them on things they would like to do in the day time so we can start offering this - maybe they would like to do some cooking with your next week, or go to play football outside/ picnic – get some idea."

129. Miss Greenidge accepted that, by June, she would have been able to knock on residents' doors and have conversations with them. She was worried about the expectation, as she saw it, of laying on and participating in physical activities such as picnics or football, particularly outdoors. I have some sympathy with Miss Greenidge's concern, and I suspect that the email would not have been written in the way it was if Ms Franklin had had a proper briefing about Miss Greenidge's disability and the restrictions it imposed on her (including if Miss Greenidge had come to the role through medical redeployment). However, the evidence was that during the short time Miss Greenidge was actually in the Staying Close role, she was never actually asked or required to perform that sort of activity. I do not accept that there was a disadvantage arising from the more basic requirement that she

simply “be available” in the Beehive at particular times in order to support the young people. I therefore do not find that the respondent failed to make adjustments in this respect.

Indirect discrimination on grounds of disability

130. The PCP relied on in respect of the indirect discrimination claim is: “requiring employees to work two days a week during a phased return”. This is substantively the same as the first PCP identified in the reasonable adjustments claim, and it was accepted by the respondent that this was a PCP and it applied to the claimant. I will not repeat my own comments about this, set out above. The respondent further accepted that the PCP put the claimant at a disadvantage.

131. The respondent asserted three legitimate aims (see List of Issues attached), and the claimant accepted that each of these was legitimate. The question was whether the imposition of the PCP was a proportionate means of achieving the legitimate aims, or whether something less discriminatory could have been done. Both counsel submitted that the outcome of the indirect discrimination claim would, in reality, follow the outcome of the equivalent part of the reasonable adjustments claim as, if the adjustments were ‘reasonable’ then making them would be a more proportionate way of achieving the aims. No authorities were put forward as to the operation of indirect discrimination in law, and no additional submissions were made by either party.

132. In view of that joint submission, and in view of my findings above, I conclude that the respondent did indirectly discriminate against the claimant, as it could have furthered its aims in a more proportionate and less discriminatory manner by allowing her to return to work for a temporary period of one day per week. The justification defence therefore fails.

Time Limit Issues

133. Miss Greenidge presented her claim on 2 September 2024 following a period of Early Conciliation. It is common ground that, applying the relevant “stop the clock” provisions, the primary limitation date was 7 April 2024. Complaints relating to acts occurring on or after that date are therefore in time. Complaints relating to acts or omissions occurring before that date are potentially out of time unless they formed part of conduct extending over a period up to 7 April or beyond. The Tribunal has a discretion to extend time if it just and equitable to do so.

134. In respect of the complaint concerning the structure of the claimant's return to work arrangements, the respondent's position was communicated during the meeting of 27 December 2023 and subsequently confirmed in the return-to-work plan dated 3 January 2024 and again during the meeting of 10 January 2024. Although that decision had on-going consequences, the respondent's position was firmly resolved by 10 January at the very latest, and the respondent thereafter acted in accordance with its own concluded views as to the acceptable parameters of the return to work arrangements. This complaint is, therefore, out of time by about three months.

135. I am, however, satisfied that it would be just and equitable to extend time in relation to this act. Miss Greenidge was, understandably, focused on making things work at this juncture, including by proactively seeking out other opportunities within the respondent and by trying to escalate the issues she was facing through the grievance process. It was appropriate and realistic for her to focus on those avenues first. Further, I take into account the significant medical issues she was experiencing at that point, and the psychological toll of the serious diagnosis she had received a few months earlier. Although there were individuals who might have been expected to have given evidence for the respondent but did not do so (specifically Laura Franklin and Matthew Maitland) there was no argument made that the respondent would have been in a position to present evidence from them if the claim had been made three months earlier.

136. The position is similar in relation to the complaint concerning medical redeployment. By January 2024 the respondent had effectively determined that redeployment would not be considered because it wished first to pursue a return to work within the claimant's substantive role. The claimant contends that redeployment ought to have been considered at that stage and I have found that it ought to have been (as an alternative to my finding that the other adjustments should have been made).

137. Applying s.123(3)(b) and (4), and for reasons set out above, I consider that the respondent's decision not to offer redeployment crystallised, at the latest, during the meeting of 10 January 2024.

138. Again, therefore, the complaint in relation to that decision is presented out of time, but for the same reasons as given in relation to the complaint concerning the return to work adjustments, I consider that it is just and equitable to extend time for presentation of that complaint.

139. In relation to the failure to provide auxiliary aids, I have already stated that the time point when this ought reasonably have been achieved was around the end of February 2024. Again, therefore the complaint is out of time but again, for the same reasons, I am prepared to extend time on the just and equitable basis.

140. The time limit for the indirect discrimination claim is also extended for the same reasons.

Conclusion

141. In view of the findings I have made a further hearing will be required to determine issues relating to remedy. A provisional hearing date was identified at the conclusion of this hearing. Should the parties need any further case management orders in order to prepare for that hearing, they should apply to the Tribunal as appropriate.

Approved by:

Employment Judge Dunlop

20 July 2026

JUDGMENT SENT TO THE PARTIES ON

23 September 2026

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FOR THE TRIBUNAL OFFICE

Notes

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

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/

APPENDIX – LIST OF ISSUES

Equality Act 2010 claims—jurisdictional Issues

Time limits

1. Have the Claimant's claims of disability discrimination been brought within three months of the acts complained of, taking into account the effect of the 'stop the clock' provisions in respect of early conciliation? (EqA 2010, ss 123(1)(a) and 140B))
2. In respect of the Claimant's complaints which are based on the Respondent's failure to do something, when is the Respondent to be treated as having decided those things? (EqA 2010, s 123(4))
3. In respect of any complaints which are out of time, do they form part of a continuing act, taken together with acts which are in time? (EqA 2010, s 123(3)(a))
4. If the complaints were not submitted in time, would it be just and equitable to extend time? (EqA 2010, s 123(1)(b)).

Failure to comply with duty to make reasonable adjustments contrary to sections 20–21 of the Equality Act 2010

5. Did the Respondent apply a provision criterion or practice (PCP) to the Claimant? (EqA 2010, s 20(3)). The Claimant relies upon the following PCPs:
 - a. The policy that employees be present for two days per week during a phased return.
 - b. The policy that medical redeployment would be considered only after a return to the substantive role had been tried.
 - c. The requirement that employees, engaged in the Claimant's original role, travel outside of the Manchester area to visit clients.
 - d. Requiring employees to work at a workstation when in the office.
 - e. Requiring employees to be available at the Beehive for young people.
6. In respect of each PCP relied upon, did that PCP put the Claimant at a substantial disadvantage in comparison with persons who are not disabled? (EqA 2010, s 20(3))
 - a. Prevent and/or hinder a sustainable and safe return to work.
 - b. Exacerbate stress and anxiety and/or symptoms related to rheumatoid arthritis.
7. Did the Respondent know or ought it to have known that the Claimant was likely to be put at a substantial disadvantage by that PCP? (EqA 2010, Schedule 8, Part 3, para 20).

8. Did the Respondent take such steps as were reasonable to avoid that disadvantage? (EqA 2010, s 20(3)). The Claimant argues that the following steps which would have been reasonable but were not taken by the Respondent:

- a. Implement an extended phased return period, in line with Occupational Health Advice.
- b. Allow the Claimant to work one day per week during her phased return.
- c. Allow for home working during a phased return.
- d. Provide regular breaks.
- e. Having a DSE assessment/ providing relevant equipment.
- f. Provide a suitable desk and/or equipment such as dictation software.
- g. Consider medical deployment in January 2024.
- h. Not being required to be available at the Beehive for residents.

Indirect discrimination on the grounds of disability

9. Does the Respondent apply the following PCPs:

- a. Requiring employees to work two days a week during a phased return.

10. Did the Respondent apply that PCP to the Claimant?

11. Did the Respondent apply (or would apply) that PCP to non-disabled persons?

12. If so, does the application of that PCP put those with the Claimant's disability at a specific disadvantage when compared to those who are not disabled?

13. Was the Claimant put to the specific disadvantage that she relies upon, being as those listed above.

14. If so, can the Respondent demonstrate that the PCP was a proportionate means of achieving a legitimate aim? The Respondent relies on the following:

- a. Ensuring service continuity and meeting operational requirements;
- b. Ensuring effective service delivery and that the needs of the young people are met;
- c. Supporting an effective return to work by the conclusion of the phased return period.