



EMPLOYMENT TRIBUNALS

Claimant: Ms Toyin Orisaremi

Respondent: South Bank Colleges

Heard at: London South (via CVP) **On:** 22-26 July, 3 August 2026

Before: EJ Harley
Mrs Christofi
Mr Murphy

Representation

Claimant: Ms Durojaiye (Lay representative)

Respondent: Mr Holloway (Counsel)

JUDGMENT ON RECONSIDERATION

1. The Judgment is varied to record that, pursuant to the Respondent's admission in paragraph 47.1 of its amended Response, the Claimant was a disabled person within the meaning of section 6 of the Equality Act 2010 by reason of anxiety at the times material to the pleaded complaints.
2. The Claimant's complaint that her constructive dismissal on 26 May 2024 constituted an act of victimisation is upheld.
3. The Claimant's claim for psychiatric personal injury allegedly caused or materially aggravated by the successful victimisation falls within the claim as pleaded and advanced and remains for determination at remedy. No finding is made at this stage as to diagnosis, causation, material aggravation, apportionment or quantum.
4. The outcomes of the remaining disability discrimination claims are unchanged, for the reasons set out in the accompanying Written Reasons. The Tribunal's previous determinations concerning the DVLA evidence and holiday pay remain undisturbed.
5. Save as varied above, the original Judgment remains unchanged. Remedy is reserved.

REASONS

1. The Tribunal has considered the parties' written representations in response to its Order dated 11 September 2026. The Tribunal has also reconsidered the

relevant findings in its Written Reasons, the amended Response, the agreed List of Issues and the existing evidential record.

2. The matters for determination are:
 - a. the effect of the Respondent's unwithdrawn admission that the Claimant was disabled by reason of anxiety at the material time or times;
 - b. whether the Claimant's constructive dismissal on 26 May 2024 constituted a detriment and act of victimisation under section 27 of the Equality Act 2010; and
 - c. whether the psychiatric personal injury claim falls within the pleaded and properly advanced claim and remains available for determination at remedy.
3. The Tribunal has determined these matters on the papers. It is satisfied that oral submissions are not necessary to determine the issues addressed in this decision. The Tribunal has approached reconsideration by reference to the existing findings and evidence. It has not reopened the liability hearing generally or directed the admission of further evidence.

Anxiety: admission

4. Paragraph 47.1 of the Respondent's amended Response contained an express admission that the Claimant was a disabled person within the meaning of section 6 of the Equality Act 2010 by reason of anxiety at the material time or times. The admission was not withdrawn.
5. The Tribunal accepts that the admission was not addressed when the original Judgment and Written Reasons were prepared. The conclusions at paragraphs 95, 100 and 101 of the Written Reasons that the Claimant had not established disability by reason of anxiety cannot stand to the extent that they conflict with that admission.
6. The admission must be given its ordinary meaning, read in the context of the pleaded claims. The phrase "the material time(s)" was not defined or temporally qualified. The Tribunal therefore considers it to mean the time or times material to the pleaded complaints. It does not consider it appropriate to introduce a narrower temporal restriction which is not contained in the admission itself.
7. The Tribunal therefore finds that, by reason of the Respondent's admission, the Claimant was a disabled person within the meaning of section 6 by reason of anxiety at the times material to the pleaded complaints.
8. This determination concerns anxiety only. It does not establish disability by reason of blackouts, dizziness or back pain. The findings concerning those alleged impairments remain unchanged.
9. The appropriate variation is to the findings and conclusions which treated anxiety as an impairment whose satisfaction of the statutory definition remained to be proved. The Tribunal does not undertake a fresh assessment of the medical evidence to determine whether anxiety met section 6. The Respondent's admission resolves that question within its proper scope.

Knowledge of disability

10. The Tribunal has reconsidered its findings at paragraphs 102 and 103 of the Written Reasons in light of the Respondent's admission that the Claimant was disabled by reason of anxiety at the times material to the pleaded complaints.
11. The Tribunal recognises that its original reasoning on knowledge followed from, and was expressed by reference to, its conclusion that the Claimant had not established disability. That conclusion must now be read subject to the admission. The admission establishes the Claimant's disability status for the purposes of section 6 of the Equality Act 2010; it does not, of itself, determine whether the Respondent knew, or could reasonably have been expected to know, of the disability.
12. The relevant question is whether the Respondent knew, or could reasonably have been expected to know, of the facts constituting the disability. Knowledge that the Claimant experienced anxiety or other health difficulties is relevant but does not necessarily determine that question. Conversely, the Respondent's lack of knowledge of the legal classification of those facts would not, by itself, answer it.
13. In reconsidering the issue, the Tribunal has taken account of the matters relied upon by the Claimant, including the fit notes referring to anxiety, the Occupational Health material, the information communicated to management and HR, and the grievance correspondence. It has considered those matters alongside its existing findings concerning the information available to the Respondent, the symptoms reported and the Occupational Health material.
14. Of particular relevance is the information provided by the Claimant to Occupational Health that her anxiety had developed in response to ongoing symptoms and perceived work stress, together with Occupational Health's assessment that her mood was expected to stabilise within weeks. In the context of the information then available, the Tribunal considers that the Respondent was entitled to take account of that assessment when considering the Claimant's condition and its likely duration. The Tribunal does not treat the Occupational Health assessment as conclusive, or as relieving the Respondent of the need to consider the information available to it as a whole. However, that assessment, considered alongside the other findings and evidence, does not establish that the Respondent knew, or could reasonably have been expected to know, that the Claimant had a disability by reason of anxiety.
15. Having reconsidered the issue in light of the admission, the Tribunal therefore maintains its conclusion that the Respondent did not have actual or constructive knowledge of the Claimant's anxiety disability. Paragraphs 102 and 103 of the Written Reasons are to be read subject to the admission and this reconsideration decision. The conclusion on knowledge remains unchanged, but the original reasoning must no longer be understood as depending simply on the Claimant's failure to establish that anxiety met the statutory definition of disability.

Consequences for the individual disability claims

16. The Tribunal has considered the effect of the admission on each of the disability discrimination claims. The admission does not automatically establish liability under any particular cause of action. Each claim remains subject to its own statutory requirements.
17. **Direct discrimination.** The alternative finding at paragraph 106 remains determinative. The Tribunal found that the relevant treatment was not because of disability, but was driven by concerns about reported blackouts, safety-critical duties and perceived health and safety risk. The admission concerning anxiety does not require that alternative finding to be reconsidered. The outcome of the direct discrimination claim remains unchanged.
18. **Discrimination arising from disability under section 15.** The original disability gateway reasoning at paragraph 108 requires correction insofar as it treated anxiety as not established as a disability. However, the Tribunal's conclusion on knowledge remains unchanged. The claim therefore fails on the basis of section 15(2): the Tribunal is not satisfied that the Respondent knew, or could reasonably have been expected to know, that the Claimant was a disabled person by reason of anxiety at the relevant time or times.
19. In those circumstances, the Tribunal does not need to determine whether the treatment complained of was because of something arising in consequence of the admitted anxiety disability, or whether the Respondent would have established objective justification. The outcome of the section 15 claim remains unchanged, although the reasoning must be amended to reflect the admission and the separate knowledge conclusion.
20. **Indirect discrimination.** The alternative finding at paragraph 111 remains determinative. The Tribunal found that the evidence did not establish group disadvantage or identify an appropriate pool by reference to which such disadvantage could properly be assessed. The admission does not require that finding to be reconsidered. The outcome of the section 19 claim remains unchanged.
21. **Reasonable adjustments.** The original conclusion at paragraph 113 that disability had not been established requires correction insofar as it concerns anxiety. The conclusion that the Respondent did not have the requisite knowledge remains unchanged. The claim under sections 20 and 21 therefore remains dismissed by reason of the knowledge provisions in paragraph 20 of Schedule 8.
22. The alternative findings at paragraphs 115 and 116 remain unchanged. They identify which pleaded PCPs were established and record the Tribunal's findings concerning the Respondent's handling of Occupational Health recommendations and proposed adjustments. Those findings do not, without the necessary knowledge, establish liability under sections 20 and 21.
23. **Harassment.** The alternative finding at paragraph 120 remains determinative. The Tribunal was not satisfied that the conduct complained of was related to disability, as distinct from the Respondent's handling of reported health concerns, safety risk, suspension and grievance management. The admission

does not require that finding to be reconsidered. The outcome of the harassment claim remains unchanged.

24. Accordingly, the anxiety admission requires correction of the disability-status findings and consequential adjustment of the reasoning on the section 15 and reasonable adjustments claims. It does not alter the outcomes of the individual disability discrimination claims.

Constructive dismissal as victimisation: Issues 8.2.9 and 8.3

25. The agreed List of Issues expressly identified constructive dismissal on 26 May 2024 as an alleged victimisation detriment at Issue 8.2.9. Issue 8.3 asked whether the relevant detriment occurred because the Claimant had done a protected act, or because the Respondent believed that she had done or might do a protected act.
26. The Respondent accepts that certain matters forming part of the relevant factual sequence were acts of victimisation. The Claimant contends that the constructive dismissal should accordingly be recorded as an act of victimisation. The Tribunal has determined that issue by applying its own existing findings.
27. The Tribunal has considered the parties' positions against its existing findings. Section 39(4)(c) of the Equality Act 2010 prohibits an employer from victimising an employee by dismissing them. Section 39(7)(b) expressly includes termination by an act of the employee in circumstances in which the employee is entitled, because of the employer's conduct, to terminate employment without notice. Constructive dismissal is therefore capable of constituting the victimisation detriment pleaded here.
28. The Tribunal does not treat the success of the victimisation claim and the constructive dismissal claim, considered separately, as automatically establishing the additional conclusion. Rather, it applies its existing findings to the pleaded issue.
29. At paragraphs 141 to 146 of the Written Reasons, the Tribunal identified the detriments established, considered the knowledge of the relevant managers and HR personnel, and found that the protected acts had a significant influence on those detriments. The Tribunal found that the Respondent had not shown that the detriments were in no sense because of the protected acts.
30. At paragraph 150, the Tribunal expressly took account of its finding of victimisation, and only that successful Equality Act claim, insofar as the Claimant relied upon discrimination as part of the cumulative breach relevant to constructive dismissal.
31. At paragraphs 184 to 190, the Tribunal found that the Respondent's failures concerning Occupational Health recommendations, safe duties, suspension, pay and grievance handling formed a cumulative course of conduct which destroyed trust and confidence. It found that the communication of 23 May 2024 formed part of that continuing course and that the Claimant resigned on 26 May 2024 in response to the cumulative breaches.

32. These findings provide the necessary connection between the victimisation already established and the constructive dismissal. The protected acts significantly influenced the detriments which formed part of the cumulative course of conduct; that course of conduct constituted the repudiatory breach; and the Claimant resigned in response to it. The Tribunal is satisfied that, applying those findings, the constructive dismissal itself constituted a detriment and dismissal for the purposes of the victimisation claim.
33. The Tribunal therefore determines Issues 8.2.9 and 8.3 in the Claimant's favour. The constructive dismissal on 26 May 2024 constituted an act of victimisation contrary to section 27 of the Equality Act 2010.
34. This determination is confined to the constructive dismissal issue. It does not reverse the Tribunal's findings that certain other alleged detriments were not established or that the holiday pay issue was not caused by the protected acts. All questions of remedy arising from the constructive dismissal as victimisation remain reserved.

Personal injury: Issue 13.5

35. Issue 13.5 asks whether the Claimant suffered personal injury as a result of any discrimination. The amended Particulars expressly pleaded physical and psychiatric personal injury, including mixed anxiety and depressive disorder, and alleged deterioration arising from the Respondent's actions and inactions. The pleading also included victimisation within the pleaded continuous course of conduct. The agreed List of Issues was not confined to personal injury caused by disability discrimination.
36. The Tribunal's Order of 11 September 2026 clarified that it had not determined that the personal injury claim was excluded solely because disability had not been established, or that personal injury could not in principle arise from victimisation. It also clarified that the absence of a finding at liability that victimisation caused or materially aggravated a recognised psychiatric injury did not determine that question against the Claimant.
37. The Tribunal has considered the parties' representations on whether a claim for psychiatric personal injury caused or materially aggravated by the successful victimisation falls within the pleaded and properly advanced claim. It concludes that it does.
38. The relevant issue is the scope of the pleaded claim, not whether the Claimant has already proved medical causation. The pleadings, agreed List of Issues and evidence advanced at the liability hearing included a case that the Respondent's treatment, including the suspension, its continuing consequences, pay treatment and grievance handling, contributed to psychiatric deterioration. The Claimant's case was not confined to the consequences of the November 2022 incident.
39. The Tribunal is satisfied that the psychiatric personal injury claim, insofar as it alleges injury caused or materially aggravated by the successful victimisation, falls within Issue 13.5 and the claim as pleaded and properly advanced. This determination does not introduce a new cause of action.

40. The Tribunal has not determined whether the Claimant has a recognised psychiatric injury attributable to the victimisation, whether the victimisation caused or materially aggravated any such injury, or what proportion of any injury is attributable to the Respondent. The Respondent remains entitled to contest diagnosis, causation, material aggravation, apportionment, prognosis, recoverability and quantum.
41. The Tribunal will deal with Issue 13.5 at remedy, subject to the parties' submissions and any focused case-management directions required to ensure a fair and proportionate determination. The parties must also address the avoidance of double recovery, including the distinction between compensation for injury to feelings and any award for clinically evidenced psychiatric injury.

Other matters and conclusion

42. The previous determinations refusing reconsideration in respect of the DVLA evidence and holiday pay remain undisturbed. They are not reopened by this decision.
43. The reconsideration is allowed to the extent set out in the Judgment and these Written Reasons. The Judgment and Written Reasons are varied to give effect to the Respondent's admission of disability by reason of anxiety at the times material to the pleaded complaints, and to record that the constructive dismissal on 26 May 2024 constituted victimisation. The outcomes of the individual disability discrimination claims remain unchanged for the reasons set out above. The original Judgment is to be read subject to the findings and conclusions in this document.
44. Issue 13.5 remains available for determination at remedy insofar as it concerns psychiatric personal injury allegedly caused or materially aggravated by the successful victimisation. The merits of that claim remain unresolved.

Employment Judge Harley
Date: 9 October 2026

Sent to the parties on:
Date: 9 October 2026