EMPLOYMENT TRIBUNALS

Claimant: Ms Amelia Turcan
Respondent: BDW Trading Limited

RECORD OF A PUBLIC PRELIMINARY HEARING

Heard at: Watford Employment Tribunal by CVP
On: 9 September 2026
Before: Employment Judge Alliott

Appearances
For the claimant: In person
For the respondent: Ms Laura Kaye (counsel)

JUDGMENT

The Judgment of the tribunal is that:-

1. At no relevant time prior to 16 February 2025 was the claimant disabled within the meaning of the Equality Act 2010.

2. The claimant's disability related claims are struck out as having no reasonable prospect of success.

REASONS

1. This Public preliminary hearing was listed by Employment Judge Gordon-Walker on 12 March 2026 to consider:

   1.1 Whether the claimant was at all material times a disabled person within the meaning of section 6 Equality Act 2010;

   1.2 Whether to strike out the discrimination arising from disability claim about the capability procedure (i.e., the claim at paragraph 3.1.1 of the list of issues below) because it has no reasonable prospects of success;

   1.3 Whether to amend the claim to add the matters at paragraphs 4.1.1 and 6 in the list of issues below; and

1.4 Case management for the final hearing.

Disability

2. The list of issues sets out the following:-

"Was the claimant disabled?

2.2.1 Did the claimant have a disability as defined in section 6 of the Equality Act 2010 at the time of the events the claim is about? Did the claimant have a physical or mental impairment? The claimant relies on:

(a) panic attacks;

(b) anxiety;

(c) Work-related stress; and

(d) depression."

The law

3. Section 6 of the Equality Act 2010 provides as follows:-

"6 Disability

(1) A person (P) has a disability if—

(a) P has a physical or mental impairment, and

(b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities."

4. Schedule 1 to the Equality Act 2010 provides as follows:-

"2. Long-term effects

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

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

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

…

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

…

5 Effect of medical treatment.

(1) An impairment is to be treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities if—

(a) measures are being taken to treat or correct it, and

(b) but for that, it would be likely to have that effect."

5. The EHRC: Code of Practice on Employment (2015) at Appendix 1, paragraph 7 provides:-

"What if a person has no medical diagnosis?

7. There is no need for a person to establish a medically diagnosed cause for their impairment. What is important to consider is the effect of the impairment, not the cause."

6. The Guidance on the Definition of Disability (2011) provides as follows:-

"Meaning of "likely"

C3. The meaning of 'likely' is relevant when determining:

- whether an impairment has a long-term effect.

…

In these contexts, 'likely', should be interpreted as meaning that it could well happen.

C4. In assessing the likelihood of an effect lasting for 12 months, account should be taken of the circumstances at the time the alleged discrimination took place. Anything which occurs after that time will not be relevant in assessing this likelihood. Account should also be taken of both the typical length of such an effect on an individual, and any relevant factors specific to this individual (for example, general state of health or age)."

7. As per the IDS Handbook on Employment Law "Disability" at 2.69:

"In J v DLA Piper UK LLP [2010] ICR 1052, EAT, the EAT said that, when considering the question of impairment in cases of alleged depression, Tribunals should be aware of the distinction between clinical depression and a reaction to adverse circumstances. While both can produce symptoms of low mood and anxiety, only the first condition should be recognised by the DDA. In practice, the requirement that any impairment must have long-term effects if it is to amount to a disability for the purposes of the Equality Act should assist in drawing a line between the two (particularly given the EAT's acknowledgment that clinical depression can also be triggered by adverse circumstances or events)."

The facts

8. The claimant's impact statement sets out the following:-

"1. Impairment relied on: Work-related stress, anxiety, depression, and panic attacks.

2.1 – How long have you had the impairment?

I have had this impairment since October 2024, and it is ongoing.

2.2 – What are/were the effects of the impairment on your ability to do day-to-day activities?

My condition had a substantial impact on:

- Sleep – severe insomnia, often no sleep at all.
- Concentration – difficulty reading, following conversations, or focussing.
- Communication – avoided calls, felt overwhelmed talking to people.
- Parenting – struggled with daily care for my child, felt emotionally distant.
- Household tasks – cleaning, cooking, and shopping became overwhelming.
- Leaving the house – anxiety about being in public or using transport.
- Work – could not deal with meetings, expectations, or shift patterns.
- Panic attacks – episodes where I felt I couldn't breathe or control my body, often leaving me emotionally and physically exhausted."

9. The claimant created that document in September 2025. I have to consider what effect any physical or mental impairment had on the claimant's ability to undertake day-to-day activities between 18 October 2024 and 16 February 2025. In so doing I have reviewed the medical evidence available to me.

10. The claimant was signed off as unfit for work from 18 October 2024 until the date of the presentation of the claim on 16 February 2025. The four Med 3 fit notes covering the period all state "Work-related stress and anxiety".

11. I have reviewed the GP notes. They contain the following:-

11.1 18 October 2024.

"History: feels extremely stressed and due to work-related issues
…

She has been summoned to several meetings and has been made to feel quite uncomfortable. She was physically sick during a meeting yesterday and has panic and heart racing symptoms.

Diagnosis: stress-related problem."

11.2 15 November 2024.

"History: Follow up appointment.. feels discriminated against

…

Having bad dreams and nightmares.

Diagnosis: Stress-related problem

Plan: referral to Talking Therapies

… I've issued her with sertraline (which she's reluctant to take as she feels it might cause her weight gain)."

11.3 12 December 2024.

"History: Spoken to Talking Therapies last week, and has been classified as medium to severe.
…
Also stated taking Sertraline a few days ago, with encouragement of the therapist.

Plan: See how she gets on with Talking Therapies."

11.4 8 January 2025.

"History: Having 6 week course of which was started yesterday and found this very helpful.

…

Examination: Feels better already, and feels the medications are starting to kick in and also loved the sessions yesterday, and looks forward to outstanding sessions.

Plan: Carry on with Sertraline review in 6 weeks."

11.5 5 March 2025

"History: Amelia has had a 6-week course of cognitive behavioural therapy, which initially helped her… However, it is no longer effective since she stopped taking sertraline. I have restarted the medication for her today.

Diagnosis: Depression, stress and [redacted]."

12. Consequently, I find there was no diagnosis or even reference prior to 16 February 2025 to panic attacks or depression.

13. In addition, I have a letter dated 10 February 2025 from Talking Therapies. This references the claimant completing five sessions of Worry Management Group. The letter confirmed that the case was now closed.

14. I have concluded that the substantial adverse effects that the claimant has set out in her impact statement were not relevant to the period I am considering between 18 October 2024 and 16 February 2025. This is because, save in relation to nightmares, the claimant did not mention any of these difficulties to her GP when she went to see her doctor. In my judgment, if the impact on the claimant was anything like as severe as in her impact statement, then she was bound to have done so. Consequently, I have

concluded that in so far as it relates to this relevant period, the claimant's impact statement is grossly exaggerated.

15. It is clear to me that the claimant's complaints relating to stress were all work-related.

16. Consequently, I find that the claimant has not proved that she had a physical or mental impairment at the relevant time.

17. Further, I find that even if the claimant did have a physical or mental impairment, then it did not, at that time, have a substantial adverse effect on her ability to undertake day-to-day activities.

18. I find that even if the claimant had a physical or mental impairment and that that had a substantial adverse effect on her ability to undertake day-to-day activities, then it was not likely to last more than 12 months.

19. Consequently, I find that the claimant was not disabled within the meaning of the Equality Act 2010 at any time prior to 16 February 2025.

Amendment

20. Issue 4.1.1 is a PCP of:

> "Working hours/pattern, specifically the requirement to work (1) until 7pm; (2) on weekends; and (3) on bank holidays."

21. The second issue relating to amendment is to characterise the matters listed at paragraph 17(a)-(g) of the grounds of complaint as a claim of harassment related to sex.

22. Employment Judge Gordon-Walker put it as follows:-

> "At the public preliminary hearing the Judge will decide if these matters already form part of the claim or if the claim needs to be amended to include them. If there is a contested application to amend, the Judge will decide that at the preliminary hearing."

23. As far as the PCP 4.1.1 is concerned, it is true that in paragraph 17 of the grounds of complaint reference is only made to PCPs in relation to flexible working and performance management. I also take into account that the pleading was drafted with the assistance of legal advice.

24. However, in paragraph 5 of the grounds of complaint, the following is pleaded:-

> "My working hours were unilaterally changed to a 4-day work week with extended hours (9 am to 7 pm). When I raised concerns about my childcare responsibilities, my manager, Gemma Ridgeway (Senior Manager), dismissed them…
>
> 6. Due to the change in my working hours, I faced financial strain as a result of increased childcare costs…"

25. In my judgment, a complaint that a working practice, in effect the PCP contended for, caused the claimant disadvantage due to childcare commitments is already pleaded. What the relevant PCP is regularly discussed with litigants at case management hearings without the necessity for a formal amendment application. In my judgment, the claimant does not need permission to amend in order to include 4.1.1 as a PCP.

26. I record that the claimant did write a document in response to the respondent's objection to the proposed amendments. In that, in relation to the expansion of the indirect sex discrimination claim, the claimant stated:-

> "I recognise that this is outside the time limit of the claim and do not intend to raise it specifically but do wish to have it noted as an example of the long-term failures of the respondent to make reasonable adjustments."

27. However, as the claimant is a litigant in person, I have decided that it would not be in her interest to withdraw the claim and, as such, it proceeds.

28. As far as the harassment amendment is concerned, the alleged unwanted conduct is already pleaded at 17(a)-(g). I have taken into account the Selkent principles and have balanced hardship.

29. The timing and manner of the application to amend is following suggestions from Employment Judge Gordon-Walker at the case management hearing on 12 March 2026.

30. The nature of the application is to introduce a new head of claim, namely harassment, albeit that this is purely a relabelling exercise.

Time limits

31. I have taken into account that the relabelling exercise is about 16 months out of time. However, in my judgment, the claimant stands a very good chance of time being extended on a just and equitable basis due to the amendment being simply a relabelling exercise. As the doctrine of relation back does not apply, the respondent can still argue the time point at trial if it thinks it worth it.

32. I have to balance hardship and in my judgment the balance comes down in favour of the claimant in allowing the amendment. The respondent will not be prejudiced by having to investigate the alleged conduct.

CASE MANAGEMENT ORDERS

Final hearing

33. The final hearing will take place at **Cambridge Employment Tribunal, Cambridge County Court and Family Court, 197 East Road, Cambridge CB1 1BA, in person, from 10 to 13 May 2027**. The case will be heard by

an Employment Judge and two non-legal members. The hearing will start at 10.00 am. You must arrive by **9.30 am**.

34. Sometimes hearings start late, are moved to a different address or are cancelled at short notice. You will be told if this happens.

Hearing timetable

35. The hearing is listed for 4 days because there will be 1 witness for the claimant and possibly 3 witnesses for the respondent. The hearing timetable is likely to be:

Day 1	2 hours	Tribunal prereading and any preliminary matters
	3 hours	Claimant's evidence
Day 2	2 hours	Claimant's evidence
	3 hours	Respondent's evidence
Day 3	2 hours	Respondent's evidence
	1 hour	Closing submissions (half each)
Day 3 and 4:		The balance of Day 3 and Day 4 for tribunal making decision, giving judgment and dealing with remedy if appropriate.

36. If you think that more or less time will be needed for the hearing, you must tell the Tribunal as soon as possible.

Tribunal composition

37. I have to consider whether the issues to be decided require an understanding of contemporary workplace norms, practices and challenges to which members can contribute experience and, in particular, the extent to which reasonableness may be especially relevant. The claimant was neutral. The respondent thought Judge sit alone. In my judgment, the case is going to involve examination of the management attitude towards flexible working and comments made. In my judgment, the hearing would benefit from the input of experience from non-legal members. Accordingly, I have ordered that it will be heard by a Judge sitting with non-legal members.

Judicial mediation

38. The respondent is not interested in judicial mediation. If the respondent changes its mind it must inform the claimant and the tribunal as soon as possible.

Claims and Issues

39. The claims and issues have been already formulated and a revised list of issues will be created taking into account the rulings on disability and amendment.

Amended response

40. The respondent has permission to serve and file an amended response in light of the altered and amended issues. Any such amended response must be sent to the tribunal and the claimant by **4pm, 4 November 2026**.

Finalised list of issues

41. The respondent is to send the finalised list of issues to the claimant and the tribunal by **4pm, 4 November 2026**.

Documents

42. By **4pm, 25 November 2026**, the claimant and the respondent must send each other copies of all documents relevant to the issues listed in the finalised list of issues.

43. Documents includes recordings, emails, text messages, social media and other electronic information. You must send all relevant documents you have in your possession or control even if they do not support your case. A document is in your control if you could reasonably be expected to obtain a copy by asking somebody else for it.

File of documents

44. By **4pm, 22 February 2027**, the claimant and the respondent must tell each other which documents they want the Tribunal to consider at the hearing.

45. The respondent must prepare a file of those documents with an index and page numbers. They must send a hard copy and a PDF copy to the claimant by **4pm, 8 March 2027**.

46. The file should contain:

    46.1 The claim and response forms, any changes or additions to them, and any relevant Tribunal orders. Put these at the front of the file.

    46.2 Other documents or parts of documents that are going to be used at the hearing. Put these in date order.

47. Where an electronic file is provided it must be in PDF format and the pages must be numbered so that they match the automatic PDF numbering system. This means that page 1 will be the first page of the index. If extra documents

are added they must be added at the end of the PDF file. Documents must appear the right way up.

48. Representatives and anybody who is going to give evidence at the CVP hearing, including the claimant, must either have a hard copy of the file or a second screen or tablet (**not** a mobile phone) to display the PDF file.

Witness statements

49. The claimant and the respondent must prepare witness statements for use at the hearing. Everybody who is going to be a witness at the hearing, including the claimant, needs a witness statement.

50. A witness statement is a document containing everything relevant the witness can tell the Tribunal. Witnesses will not be allowed to add to their statements unless the Tribunal agrees.

51. Witness statements should be typed if possible. They must have paragraph numbers and page numbers. They must set out events, usually in the order they happened. They must also include any evidence about financial losses and any other remedy the claimant is asking for. If the witness statement refers to a document in the file it should give the page number.

52. At the hearing, the Tribunal will read the witness statements. Witnesses may be asked questions about their statements by the other side and the Tribunal.

53. The claimant and the respondent must send each other hard and PDF copies of all their witness statements by **4pm, 22 March 2027**.

54. The statements must be limited in length as follows, unless any excess is no more than five per cent of the total allowed, with the word count clearly shown at their end;

    The claimant's : 5,000 words for her own statement.
    The respondent's: 2,500 words for each witness.

55. Any application to extend the limit set or agreed for the length of witness statements must be made before they are exchanged.

56. The claimant and the respondent must both bring copies of all the witness statements to the hearing for their own use.

Checklist

Date	**Order**	✓
	Schedule of Loss	
25 November 2026	Respondent's documents	
25 November 2026	Claimant's documents	
22 February 2027	File	

22 March 2027	Witness statements	

Hearing preparation

57. By **4pm, 5 April 2027**, the claimant and the respondent must both write to the Tribunal to confirm that they are ready for the hearing or if not, to explain why. If you intend to have more witnesses than you have already told the Tribunal about, you must say so.

Providing documents & statements to the Tribunal

58. The respondent must bring four copies of the hearing file and all the witness statements to the Tribunal for the Tribunal to use by **9:30 am** on the first day of the hearing. If there is a chronology, list of people or reading list they must also bring four copies of each.

Variation of dates

59. The parties may agree to vary a date in any order by up to 14 days without the Tribunal's permission, but not if this would affect the hearing date.

About these orders

60. These orders were made and explained to the parties at this preliminary hearing. They must be complied with even if this written record of the hearing arrives after the date given in an order for doing something.

61. If any of these orders is not complied with, the Tribunal may: (a) waive or vary the requirement; (b) strike out the claim or the response; (c) bar or restrict participation in the proceedings; and/or (d) award costs in accordance with the Employment Tribunal Rules.

62. Anyone affected by any of these orders may apply for it to be varied, suspended or set aside.

Writing to the Tribunal

63. Whenever they write to the Tribunal, the claimant and the respondent must copy their correspondence to each other.

Useful information

64. All judgments and any written reasons for the judgments are published, in full, online at **www.gov.uk/employment-tribunal-decisions** shortly after a copy has been sent to the claimants and respondents.

65. There is information about Employment Tribunal procedures, including case management and preparation, compensation for injury to feelings, and pension loss, here: **www.judiciary.uk/publications/employment-rules-and-legislation-practice-directions/**

66. The Employment Tribunals Rules of Procedure are here: **www.gov.uk/government/publications/employment-tribunal-procedure-rules**

67. You can appeal to the Employment Appeal Tribunal if you think a legal mistake was made in an Employment Tribunal decision. There is more information here: **www.gov.uk/appeal-employment-appeal-tribunal**

Approved by

Employment Judge Alliott

Date: 5 October 2026

Sent to the parties on:
2 November 2026
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For the Tribunal Office:

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