



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms Lakhvinder Kaur

**Respondents:** (1) Tunmarsh School  
(2) London Borough of Newham

**Heard at:** East London Hearing Centre

**On:** 4<sup>th</sup> April 2023

**Before:** Employment Judge Barrowclough

## Representation

**Claimant:** Mr Singh (Claimant's brother)  
**Respondents:** Mr Theo Lester (Counsel)

# RESERVED JUDGMENT

The judgment of the Tribunal is that at the material time the Claimant was not a disabled person by reason of the mental impairment of anxiety and depression, and that she then did not have a disability as defined in s.6 Equality Act 2010. Accordingly, the Claimant's complaints of harassment related to disability, direct disability discrimination, discrimination because of something arising in consequence of a disability, a failure to make reasonable adjustments, and victimisation in so far as it relates to disability are dismissed. The Claimant's claim is to be listed for a further preliminary hearing (closed) with a 1-hour time estimate on the first open date after 28 days following the promulgation of this judgment.

# REASONS

## Background

1 The Claimant was born on 9 July 1987, and was therefore 35 years old at the date of this hearing. She was employed by the First Respondent from 19 December 2016 until her resignation on 28 November 2021 in a number of different roles, latterly as an administrative officer on an annual gross salary of £24,000. The Claimant commenced early conciliation on 14 January 2022, the early conciliation period coming to an end with the

issuing of the appropriate certificate on 24 February 2022; and her ET1 originating claim was received by the Tribunal on 23 March 2022. In that claim, the Claimant advances complaints of (a) unfair constructive dismissal, (b) harassment related to age and/or disability, (c) direct discrimination because of age and/or disability, (d) discrimination because of something arising in consequence of her disability, (e) a failure to make reasonable adjustments, (f) victimisation, and (g) unauthorised deductions from wages and holiday pay. The Second Respondent was joined to this claim without objection at an earlier preliminary hearing on 3 October 2022 as being the relevant local authority with liability for maintained schools within its borough. The Respondents deny and resist all the Claimant's complaints on the grounds set out in the ET3 response (pages 33 to 52 in their bundle), including that it is not accepted that the Claimant's condition amounted to a disability, nor that they had either actual or constructive knowledge of any such alleged disability; and that at least some of the discrimination allegations are out of time.

2 This was an open preliminary hearing, as directed by Employment Judge Lewis at the preliminary hearing on 3 October 2022, to determine if appropriate whether the Claimant was, as she contends, a disabled person within the definition set out in s.6 Equality Act 2010 by reason of anxiety and depression at the material time, namely from July 2019 or thereafter until her resignation from her employment by the First Respondent on 30 November 2021, and also whether the Claimant's allegations of disability discrimination (or any of them) are out of time, in breach of s.123(1) Equality Act 2010.

3 This preliminary hearing took place at the East London Hearing Centre on 4 April 2023, and at its conclusion I reserved my judgment. The Claimant was represented by her brother Mr Singh and the Respondents by Mr Lester of counsel. At the preliminary hearing in October 2022, Judge Lewis made a number of case management orders and directions, including that the Claimant provide further and better particulars of the complaints she advances, such particulars to be served by 16 January 2023. A copy of the particulars provided by the Claimant (in fact on 13 February 2023, although no issue is taken in relation to their being late) entitled '*Record of Incidents*' is at pages 62 to 68 in the pdf version of the bundle prepared for this hearing by the Respondents. As often happens, the pagination in that bundle index and in the pdf version differs slightly: page references hereafter are to the electronic copies of documents unless otherwise indicated.

4 Simultaneously with her Record of Incidents, the Claimant also served Amended Particulars of Claim on 13 February 2023. A copy of that document is at pages 70 to 75 in the Respondents' bundle. The Respondents' solicitors thereafter pointed out that there were a number of apparent errors in relation to minor matters of detail in that amended pleading, and on 27 February 2023 a corrected version of the Amended Particulars was served by the Claimant, without objection on the Respondents' part, a copy of which is at pages 77 to 82 in the Respondents' bundle. Finally, yet further Particulars of the Claimant's claim were sent to the Tribunal and the Respondents' solicitors during the night of 3/4 April 2023. Mr Singh indicated on the Claimant's behalf that these represented a further clarification in the details of the Claimant's claim and had been drafted with assistance from the Newham CAB, and the commencement of the hearing was put back for approximately 45 minutes to enable myself and Mr Lester to read the document, together with an application to (re-)amend and the Claimant's skeleton argument, which had accompanied those further Particulars.

5 At the beginning of the hearing, I explained to the Claimant and Mr Singh that she could, if she wished, give oral evidence in relation to the matters to be determined, and in

fact there was provision for service of a witness statement by the Claimant in EJ Lewis' orders and directions. The Claimant had not provided any such statement, and decided not to give evidence, and the Respondents called no witnesses, so that I heard no evidence but simply submissions from Mr Lester and Mr Singh in reply. In addition to the Respondents' bundle and the Claimant's further Particulars and skeleton argument mentioned above, I was provided with a skeleton argument on behalf of the Respondents, to which Mr Lester spoke. Mr Lester also made clear at the outset that the Respondents are seeking strike out or deposit orders based on the perceived merits (or lack of them) of the Claimant's claim, although he appreciated that fell outside the ambit of the Tribunal's stated agenda for this particular hearing and might require another appointment; and Mr Singh then indicated that he would in any event invite the Tribunal not to determine either the disability or 'out of time' issues at this hearing, because (a) there was no agreed bundle before the Tribunal and (b) the Respondents' skeleton argument had been served late. In relation to those two points, it was accepted and agreed that a copy of the Respondents' bundle had been provided to the Claimant electronically during the early afternoon of 3 April, the day before this hearing, and that a copy of their skeleton had been sent to her by email on 22 March 2023, one day later than the time specified in Judge Lewis' order, but twelve days before this hearing.

## Submissions

6 In relation to the Claimant's alleged disability of anxiety and depression, Mr Lester points out that her case has been variously described as (i) work related stress, as noted in an OH report in November 2019, (ii) depression and anxiety from November 2020, as pleaded in the original particulars of claim, (iii) alternatively, anxiety and depression from July 2019 and at all relevant times thereafter, and (iv) that the actions of the First Respondent's managers and other employees caused the Claimant to become ill with depression and anxiety on unspecified dates, as set out in her further particulars. Finally, in her disability impact statement (page 122 at seq), the Claimant makes clear that as a result of being bullied she felt anxious and depressed from September 2019.

7 In terms of the available contemporaneous evidence, Mr Lester makes the general point that the 19 pages of digital medical notes covering the period from 15 October 2019 until 28 October 2022 which have been disclosed to date by the Claimant and which are included in the Respondents' bundle appear to be partial and incomplete screenshots from a NHS phone application, and in some places (e.g. page 103) seem to have been arbitrarily cut off or cropped. Looking at individual documents in the documentation disclosed, page 89 in the Respondents' bundle is a fit note dated 14 October 2019, signing the Claimant off for 14 days because of '*low energy, tiredness, under investigation for cause*'. That absence gave rise to a '*Stage One Meeting*' with Ms Shirley, the school finance and business manager, on 4 November that year, when the Claimant's health was discussed and a referral to OH suggested and accepted (pages 90 to 96). The resulting report from Medigold Health dated 25 November 2019 commences at page 97. The OH adviser (Ms Carmel Martin) concluded that the Claimant was fit for her full contractual role without any modifications or adjustments; that her issues appeared to be more related to reactive anxiety as a result of perceived stress at work, the Claimant having returned to work from maternity leave to a completely new role and way of working which she found difficult to adjust to with associated relationship issues, rather than to depression and/or anxiety; and that there were no other health issues or underlying concerns to be taken into consideration. No mental health condition was noted or diagnosed, and mediation and counselling options discussed. The Claimant had by then already attended a supervision meeting on 30

September 2019 (page 99), and a summary of further such meetings from November 2019 until June 2021 is at page 101.

8 On 7 November 2019 the Claimant saw her GP, and at least part of the resulting note is at page 103. That confirms that the Claimant's reported problem was anxiety with depression, that she felt anxious all the time with generalised anxiety and had asked about anti-depressants. From the summary at page 112, at least partially supported by other documents, it appears that the Claimant was prescribed Naproxen 250 mg tablets once in February 2020, then Sertraline 50 mg tablets in June and once again in November that year. Part of an undated note at page 106, probably pre-dating June 2020, records that the Claimant was not then having suicidal thoughts; and at the Claimant's consultation on 20 November 2020 (page 109) it was recorded that the main issue causing the Claimant anxiety was stress regarding a situation at work, with a difficult and unsupportive relationship with her line manager and a forthcoming capability meeting which the Claimant regarded as being unjustified and unreasonable. There is a note on page 112 dated 10 November 2020 that the Claimant had a significant mixed anxiety and depressive disorder.

9 The next medical entry is on 23/25 February 2021, when the Claimant requested another fit note, but did not want depression to be specified as the reason. The Claimant had had a telephone consultation with a doctor on 23 February, when she said that she had been prescribed Sertraline in the previous November, which she had taken although it made her feel unwell, and her 25 February 2021 MED3 fit note duly specified low energy, rather than depression (page 115). The summary at page 117 confirms that the Claimant was prescribed with Sertraline tablets on 23 February 2021 and again on 8 April that year. There are no further medical notes or documents prior to the Claimant's giving four weeks' notice of her resignation on 31 October 2021, apart from her 21 October fit note.

10 The Claimant's relevant work history is that a capability process was commenced in September 2020 by the Claimant's line manager Ms Liz Shirley arising from her perceived poor performance. There was a meeting with the Claimant under that procedure in November 2020, when a 10-week period of coaching had been implemented; and that coaching period had been extended at a further capability meeting on 9 March 2021. At that later meeting the Claimant had been told of a forthcoming staffing restructure at the school, which in fact came into effect in May 2021. As part of that process, the Claimant had applied for two individual roles, namely PA for the head teacher and senior finance officer. Neither application had been successful, and the Claimant had accepted the lower grade role of administrative assistant in July 2021. On 21 October 2021 the Claimant was signed off sick due to stress at work, and she submitted her resignation ten days later.

11 Against that background, Mr Lester submitted that disclosure by the Claimant of her relevant medical history and documentation had plainly been incomplete, and that the burden of proving disability rested and remained on her. There was a note on the Claimant's records dating from 28 October 2022 (page 120) that she had expressed concern about how she could demonstrate to the Tribunal the prolonged impact on her medical health, and that the Claimant had been '*advised to request a GP supporting letter summarising the extent of her anxiety, depression and stress caused by the capability process initiated by her employer which she won, followed by employment tribunal initiated by patient*'. But no such letter, setting out the Claimant's relevant medical history and any diagnosis, advice, or medication prescribed, had been obtained or disclosed. It was problematic relying on only part of the overall picture which emerged from the Claimant's disclosure, and that must limit

the weight to be adduced to the partial evidence disclosed. In the Claimant's case, there were long gaps of three or four months between her seeking and obtaining medical advice and assistance, namely from November 2019 until February 2020, then until June and then November that year, and then until February 2021, with nothing after April 2021 before the Claimant's resignation apart from the sick note ten days earlier. Those gaps were also present in the medication which the Claimant had been prescribed and taken: Naproxen in February 2020, then Sertraline in November that year and in February, April and November 2021.

12 Secondly, there was no evidence of whether or how any mental impairment had any or any substantial adverse effect on the Claimant's ability to carry out normal day-to-day activities, certainly in the period from February to November 2020, or between April and October 2021. Whilst it was accepted that anxiety and depression is a fluctuating disorder which may amount to a disability, a claimant must prove not only such a substantial adverse effect, but also that it is or was long term, lasting for at least twelve months. It was submitted that this Claimant had failed to do either.

13 Thirdly, the medical records dating from February 2020 suggest that the Claimant specifically requested that the fit note that she wanted should refer to '*low energy*', rather than mention the word '*depression*'. That was hardly consistent with a condition sufficiently serious to amount to a disability. Finally, Mr Lester submitted that the required level and duration of any substantial adverse impact on the Claimant's ability had not been demonstrated. Whilst there had been a referral to OH, and there was a note in the Claimant's medical file to suggest that at least in November 2020 her disorder was significant, any such effect was intermittent at best, consistent with occasional periods of stress at work, particularly in the context of the Claimant's account in both her May and June 2021 supervision meetings that she was then feeling at a '9 out of 10' level in both her personal and professional life.

14 Turning to the jurisdictional issue, and whether the Claimant's allegations pre-dating 15 November 2021 are out of time, Mr Lester submitted that all the allegations in both Schedules 'A' and 'B' in the Claimant's Record of Incidents dated 13 February 2023, as well as that at paragraph 36 of the original Particulars of Claim, should be struck out. All the alleged incidents in Schedule A (pages 62/63) relate to a former member of the First Respondent's staff called Amal Hussein, and all occurred between 10 December 2019 and 21 January 2020. The allegations in Schedule B relate to alleged bullying of the Claimant by her line manager Liz Shirley, and arise from alleged incidents between November 2020 and September 2021, most of them in the earlier part of that period. The Claimant had contacted her union representative and obtained advice about her working conditions in January 2020, as was clear from the supervision summary at page 101, but had failed to take appropriate action thereafter. The cogency of the evidence and the overall fairness of any trial would be prejudiced particularly if the allegations of harassment and bullying concerning four or five colleagues, many of them no longer employed, dating from late 2019 or early 2020 were permitted to be pursued. The Claimant had raised two complaints or grievances in November and December 2019, which had been investigated and an outcome letter provided on 6 March 2020. No reason had been put forward to explain or justify the subsequent delay in pursuing those matters. Additionally, it was difficult to see how they could be connected to the events leading up to the Claimant's resignation eighteen months later in late October 2021, following a staffing restructure where the Claimant had moved roles, and the Claimant had not advanced the argument that all events constituted a single

course of discriminatory conduct.

15 In reply, Mr Singh adopted and relied on the skeleton argument which had been presented shortly before this hearing, and which I summarise as follows. It was well established that discrimination allegations should generally be determined on their merits, rather than on technicalities, particularly where a claimant is a litigant in person without recourse to professional legal support. The Tribunal should in such cases make allowances and permit additional time for compliance with case management orders and directions, and not look for the standard of participation expected from experienced lawyers. In this case there was no equality of arms between the parties, and the Tribunal should not penalise the Claimant for any errors or omissions which were curable within a reasonable further time frame. Whilst it was accepted that there might well be gaps in the medical evidence provided to date by the Claimant, she had not been aware that such medical evidence had to be comprehensive, and having done her best to obtain what she could from the NHS in the time available had done no more than provide a snapshot of her health. The Claimant could obtain more comprehensive medical evidence from her GP, and perhaps more specialized medical opinion in the form of an expert report.

16 The Claimant's case was that that First Respondent had adopted calculated and bullying treatment in order to take advantage of the Claimant's mental health condition and to force her out of employment by means of poor performance procedures; that the treatment of the Claimant by her line manager Ms Shirley was directly linked to her anxiety and depression; and that but for that condition the Claimant would not have been treated in that way. The Claimant disputes that this is a case of the medicalization of work problems, or a reaction to difficulties at work, as in J v DLA Piper UK LLP as suggested by the Respondents.

17 It was submitted that the Claimant had had insufficient time to prepare for this preliminary hearing because the Respondents' skeleton argument had been served late, on 22 March 2023 and some 13 days before the hearing, whereas Judge Lewis' order had been for service on 21 March. The Claimant is a mother with childcare responsibilities and in full time employment. Whilst she had assistance from ACAS and Newham CAB when drafting her claim, that assistance had been less frequent recently, limited to telephone advice and conversations. Additionally, the bundle for this hearing had only been served by the Respondents' solicitors during the previous day's afternoon, and was not agreed. Overall, the Claimant should be given more time and an opportunity to resolve any defects in compliance and in the evidence she has served, and the Respondents' application was premature.

18 In relation to the application to strike out parts of the claim as being out of time, it was submitted that the chronology of detailed allegations and events comprised a continuous course of conduct, as provided for in s.123(3) Equality Act 2010, leading up to the Claimant's resignation in late 2021. They were relevant to and probative of the Claimant's core complaint of unfair constructive dismissal, and equally to her discrimination allegations. The common denominator in relation to all relevant matters was the Claimant's line manager Ms Shirley, who it was alleged had orchestrated, manipulated, and managed the bullying and discriminatory treatment of the Claimant. None of the events relied on by the Claimant were more than 3 months less a day apart from each other, and therefore all are connected. To strike out the Claimant's earlier allegations would be to adopt an arbitrary approach and would unfairly render the Claimant's case less coherent; and since those

allegations related to the unfair dismissal complaint, which it was accepted was in time, as well as to the disability discrimination complaint, the claim would not be rendered more lengthy or complex by their remaining to be determined in respect of both complaints. Finally, and if necessary, it would be just and equitable to extend time if necessary to enable the Claimant to rely on all the allegations in Schedules A and B and paragraph 36 of the Particulars of Claim at the hearing before the full Tribunal.

19 In his closing oral remarks, Mr Singh spoke to and emphasised the points made in his skeleton argument. The bundle before the Tribunal did not contain all the relevant documents. For example, a number of fit notes provided by the Claimant were not included, the supervision meeting notes for 30 September 2020 at page 99 had been amended, and some of the documentation relating to the Claimant's grievance in December 2019 was missing. It was accepted that the Claimant's GP medical notes were incomplete, but the Claimant had cropped the images disclosed from the NHS database and done her best as a litigant in person. Any deficiencies could be cured by instructing a medical expert to assist the Tribunal. It was not being suggested by the Claimant that the Respondents had withheld relevant documents in compiling the hearing bundle, but rather that there were additional relevant documents which were not included. Mr Singh reiterated that the Respondents' skeleton had only been served some thirteen days before the hearing, that in the Claimant's circumstances that afforded an insufficient period within which to respond, and that the Respondents' hearing bundle had only been provided on the previous afternoon.

20 With respect to the application to strike out parts of the claim as being out of time, Mr Singh submitted that the events in late 2019 involving Amal Hussein as set out in Schedule A were highly relevant. Ms Hussein had become the Claimant's line manager some 18 months later following the staff restructure in July 2021, which had been the 'last straw' so far as the Claimant was concerned, and she and Ms Shirley acted together and in concert in their treatment of the Claimant over the whole period. The Claimant's allegations and the events relied on related to both the Claimant's unfair dismissal complaint and her disability discrimination claim, and it would be not only possible but just and equitable to consider and determine them in relation to both.

21 In a brief closing response on behalf of the Respondents, Mr Lester confirmed that the hearing bundle had been served on the Claimant by email at 2.25pm on the previous afternoon; that the Respondents' skeleton argument had been served one day late, for which he apologized; and that all the relevant documents in the Respondents' possession or which had been disclosed by the Claimant had been included in the hearing bundle. It was submitted that the Claimant would have had copies of all that material in any event, and also plenty of time within which to obtain any missing medical documentation. Whilst the Claimant is a litigant in person, she had had assistance from the CAB in formulating her claim and also the recently served further particulars, as well as help and representation by her brother, who is someone with at least some legal training.

## **Discussion and Conclusions**

22 The first issue before the Tribunal is whether to determine if the Claimant was, as she contends, a disabled person within the definition set out in s.6 Equality Act 2010 by reason of anxiety and depression at the material time, namely from July 2019 or thereafter until her resignation, and whether the Claimant's allegations of disability discrimination (or any of them) are out of time, in breach of s.123(1) Equality Act 2010; or alternatively, and

as requested by Mr Singh on the Claimant's behalf, to postpone consideration of those matters to another preliminary hearing.

23 In my judgment, there is no good or sufficient reason or justification for the adjournment which the Claimant seeks. In relation to the Claimant's medical records and notes, I didn't hear evidence, but it appears from what I was told and from the Claimant's own skeleton that the Claimant has only provided partial disclosure of that documentation, since she speaks of giving a '*snapshot of her health*'. Secondly, I do not accept the suggestion that the Claimant was unaware that disclosure of medical evidence had to be comprehensive. EJ Lewis' orders and directions, including that the Claimant **must** (emphasis added) by 28 November 2022 send the Respondents copies of her GP and other medical records '*that are relevant to whether she had the disability at the time of the events the claim is about, and any other evidence relevant to whether she had the disability at that time*' could hardly be clearer. Those orders were made at the hearing on 3 October 2022, when this hearing was listed with the specific purpose of determining the disability and out of time issues, so that the Claimant was on notice that full disclosure of her GP and medical records was required for and would be relevant to this hearing. Whilst neither the appellant nor her brother are lawyers, it must or should have been clear that all medical evidence relating to those issues should be disclosed, the Claimant has had over six months within which to obtain such evidence and to do so, and in my judgment must bear the consequences of any such failure or omission on her part.

24 Nor do I accept that the twelve or thirteen days which the Claimant had within which to respond to the Respondents' skeleton argument and to prepare for this hearing was inadequate or unfair, albeit that skeleton was served marginally late. In coming to that conclusion, I bear in mind that the Claimant was able within that period, with assistance from the CAB and her brother, to draft her own skeleton argument, as well as proposed re-amended particulars of claim and an accompanying application. Finally, whilst there was no agreed bundle before the Tribunal (and I note that there was no such provision or requirement in the orders and directions made on 3 October 2022), Mr Singh did not suggest that the Respondents were deliberately withholding any relevant documents, and it was of course open to the Claimant to produce any documents relevant to the matters to be determined which had not been previously disclosed by her, and there was plenty of time after the original disclosure date of 28 November 2022 within which to do so. No such additional disclosure was provided.

25 Accordingly, and for these reasons I will proceed to determine the identified issues, focusing first on whether the Claimant was a disabled person at the material time. As defined in s.6 Equality Act 2010, a person has a disability if he or she has a physical or mental impairment, and that impairment has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities. 'Substantial' in this context is defined as meaning more than minor or trivial, and 'long-term' as having lasted or being likely to last for at least twelve months.

26 The Claimant relies on the mental impairment of anxiety and depression. It was not in dispute that anxiety and depression is a condition which can amount to a qualifying disability. It is fair to say that there has been some uncertainty in the way in which the Claimant's alleged disability has been put, in both the nature and duration of her condition, from time to time and as summarised at paragraph 6 above. That uncertainty is mirrored to some extent in the diagnoses and descriptions provided by various doctors and medical



professionals, as Mr Lester submitted, and no doctor or consultant's letter or report providing a definitive diagnosis, such as the Claimant was advised to obtain in October 2022, has been provided. Nevertheless, I am satisfied on a balance of probabilities that the Claimant was suffering from the mental impairment of anxiety and depression from late 2019 until late 2021 when she resigned from her employment with the First Respondent. In reaching that conclusion I bear in mind in particular her GP's diagnosis of anxiety and depression on 7 November 2019; the medical note at page 112 dated 10 November 2020 that the Claimant was then suffering from a significant mixed anxiety and depressive disorder; and that the Claimant was prescribed Naproxen in February 2020, and then repeat prescriptions for Sertraline from June 2020 until November 2021. It may well be that the Claimant's condition derived from or was caused or contributed to by her problems at work and her difficult relationship with her line manager Ms Shirley, but in my judgment it goes beyond the 'medicalization of work problems' or 'adverse life events' identified in **DLA Piper**, and, as the Employment Appeal Tribunal confirmed in that case, the focus of the Tribunal's enquiry in cases of mental impairment should be on the effect that impairment has on the employee's day-to-day activities.

27 Has the Claimant shown that her anxiety and depression had a substantial and long-term adverse effect on her ability to carry out normal day-to-day activities between late 2019 and November 2021? In my judgment, there is simply insufficient evidence of any such adverse effect, and she has failed to do so. As already noted, there is no consultant or GP's letter or report setting out any such effect. The Claimant chose not to give evidence, so her disability impact statement (pages 122 to 127) was neither verified nor tested in cross-examination. Furthermore, most if not all of the claimed effects on the Claimant's day-to-day activities in that statement (for example that she suffered from distress and panic attacks, mental and physical exhaustion, loss of sleep and appetite, and feels that her personality has changed) were unsupported by any evidence that I was taken to, and do not really address the stated issue of what activities have been substantially and adversely affected. There are lengthy gaps of three or four months in the Claimant's seeking medical assistance, from November 2019 until February 2020, then until June and then November that year, and then until February 2021, with nothing after April 2021 before the Claimant's resignation apart from her sick note ten days earlier; and those gaps are mirrored in the medication which the Claimant was prescribed and took. Finally, I agree with Mr Lester that any such adverse effect was intermittent at best, generally coinciding with periods of stress or difficulties at work, that during the summer of 2019 the Claimant repeatedly stated in supervision meetings that both her personal and professional life was very satisfactory, and that the required long-term duration of any such adverse effect has not been established.

28 It follows that for these reasons I conclude that at the material time the Claimant was not a disabled person by reason of the mental impairment of anxiety and depression, and that she did not have a disability as defined in s.6 Equality Act 2010. The Claimant's complaints of harassment related to disability, direct disability discrimination, discrimination because of something arising in consequence of a disability, a failure to make reasonable adjustments, and victimisation in so far as it relates to disability must therefore be dismissed.

29 In case I am mistaken in coming to that conclusion and the Claimant was a disabled person, I make plain that I would strike out all the alleged incidents of disability discrimination in Schedule A of the Claimant's Record of Incidents (pages 62/63), which all relate to the former member of the First Respondent's staff called Amal Hussein and which all occurred between 10 December 2019 and 21 January 2020 as being out of time. It is very difficult to

see how they could be connected to the events leading up to the Claimant's resignation in late October 2021, following a staffing restructure where the Claimant had moved roles. Additionally, in so far as the Claimant claims that she was the victim of a conspiracy to oust her on the part of the First Respondent's employees, of which Ms Hussein was part, she may wish to rely on those allegations as evidence of that conspiracy. On the other hand, I would not strike out the Schedule B allegations, since they all relate to the Claimant's line manager Ms Shirley and arguably are part of the course of discriminatory conduct instigated by her which the Claimant now asserts.

30 Finally, it seems to me that this is a case where a further case management hearing would be helpful, in order to sort out and clarify the Claimant's remaining complaints, particularly those relating to age discrimination, and bearing in mind that the full merits hearing will not take place until early 2024. Accordingly, there will be a further PHC with a one-hour time estimate on the first open date after 28 days following the promulgation of this judgment. For the avoidance of doubt, I make clear that I have not addressed the Respondents' application for strike out or deposit orders based on the perceived merits (or lack of them) of the Claimant's claim: if the Respondents wish to pursue that application, they must seek a further hearing.

**Employment Judge Barrowclough**  
**Dated: 4 May 2023**