EMPLOYMENT TRIBUNALS

BETWEEN

Claimant		**Respondent**
Mrs D Treseder	AND	Royal Cornwall Hospitals NHS Trust

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT Plymouth **ON** 3, 4, 5 and 6 October 2022

EMPLOYMENT JUDGE N J Roper **MEMBERS** Ms D England
Mrs P Skillin

Representation

For the Claimant: **In person, assisted by her husband Mr Treseder**
For the Respondent: **Mr A Shellum of Counsel**

JUDGMENT

The unanimous judgment of the tribunal is that:
1. The claimant's claim for direct disability discrimination is dismissed on withdrawal by the claimant; and
2. The claimant's remaining claims are all dismissed.

RESERVED REASONS

1. In this case the claimant Mrs Delia Treseder, who was dismissed by reason of capability following extended ill-health absence, claims that she has been unfairly dismissed, and that she was discriminated against because of a protected characteristic, namely disability. The claimant withdrew her claim of direct disability discrimination claim at this hearing, and the remaining discrimination claims are for discrimination arising from disability, and on the grounds that the respondent failed to make reasonable adjustments. The respondent concedes that the claimant is disabled, but it contends that the reason for the dismissal was capability (arising from extended ill health), that the dismissal was fair, and that there was no discrimination.

2. We have heard from the claimant. For the respondent we have heard from Mrs Sarah Warren, Mrs Melissa McDermott, and Mrs Roz Davies. We also accepted statements of evidence prepared by Mrs Kim Bellis, Mr Ian Dean, and Mr Peter Gray on behalf of the respondent whose evidence the claimant did not seek to challenge.
3. There was a degree of conflict on the evidence. We have heard the witnesses give their evidence and have observed their demeanour in the witness box. We found the following facts proven on the balance of probabilities after considering the whole of the evidence, both oral and documentary, and after listening to the factual and legal submissions made by and on behalf of the respective parties.
4. The Facts
5. The respondent is an NHS Trust which employs approximately 5,000 members of staff. It provides acute and specialist healthcare services in Cornwall and the Isles of Scilly across three main hospitals. These are the Royal Cornwall Hospital at Treliske in Truro; West Cornwall Hospital (WCH) in Penzance; and St Michael's Hospital (SMH) in Hayle.
6. The claimant Mrs Delia Treseder was employed by the respondent from 24 August 1995 initially as an audiologist, and subsequently after promotion as a senior audiologist. She was dismissed on the grounds of capability (for extended ill-health) on 30 April 2021. Following the expiry of her notice the effective date of termination of her employment was 22 July 2021.
7. The claimant is a disabled person by reason of depression. The claimant was first diagnosed with depression in December 2001. The respondent accepts that the claimant was a disabled person by reason of that mental impairment.
8. The claimant worked for the respondent's audiology service in West Cornwall. The clinics which she covered were in different venues. The largest hospital in Cornwall is Treliske Hospital in Truro which was the administrative hub and where there was also a clinic. There were also clinics in West Cornwall Hospital (WCH) in Penzance; Saint Michael's Hospital (SMH) in Hayle; and the Camborne and Redruth Community Hospital at Barncoose. The claimant lives in Pendeen in West Cornwall, which is West of Penzance. The nearest clinic venues to her in order were WCH in Penzance, SMH in Hayle, Barncoose in Camborne, and Treliske in Truro. By far the longest commute was to Treliske (which also entailed a park-and-ride service in Truro to avoid hospital car parking fees), and which could take up to 90 minutes each way.
9. As long ago as 2002 the respondent had implemented a working adjustment following a recommendation from its Occupational Health (OH) Department that the claimant worked as close to home as possible to reduce travelling time and to avoid over tiredness. There was subsequently a departmental reorganisation and after December 2008 the claimant worked an agreed reduced pattern of 33.3 hours over four days every week. Her normal working pattern which became established was working at SMH in Hayle on Mondays and Tuesdays, on Wednesdays usually at Treliske, with this long commute followed by a rest day on Thursdays to afford time for recuperation, and then Friday again at SMH. In about 2012 the respondent opened an audiology clinic at WCH in Penzance near her home, and she attended clinics here rather than SMH in Hayle.
10. As of the events of 2019 which are set out below the claimant's working pattern was therefore over four days a week, with three days a week at WCH (every Monday, Tuesday and Friday) and at Treliske every Wednesday, with the day off every Thursday to recuperate from this long commute. Occasionally the claimant worked in different locations, but this was a general pattern which she found to be manageable. She tended to remain affected by the long commute to Treliske on the Wednesday, but she was reassured by knowing that she could rest on her agreed rest day of Thursday.
11. Mrs Melissa McDermott, from whom we have heard, became Head of Audiology in 2018, and thereafter she was the claimant's line manager. She managed a team in West Cornwall of approximately four audiologists and senior audiologists, including the claimant. There were considerable staff absences and shortages during 2019 and the claimant was asked to travel further afield to help maintain the service to patients.

12. During 2019 one of the claimant's colleagues (to whom we refer as CR) was diagnosed with thyroid cancer and following an operation lost the partial use of a vocal cord. This gave rise to the duty to consider and implement reasonable adjustments to CR's working pattern. As a result, Mrs McDermott notified the Department by email dated 8 October 2019 that a request to change the working patterns on a permanent basis had been received from CR. Mrs McDermott also notified the claimant personally that to assist CR the respondent was considering CR's proposal of working Tuesdays and Thursdays rather than Wednesday followed by Thursday so as to give her a break in between the two consecutive days. CR also worked at WCH as well as the claimant, and there was only one room available at that clinic and they could not therefore "double up" at the same place on the same day. This was therefore likely to have a knock-on impact on the claimant's agreed working arrangements. The claimant raised her concerns in this respect and enquired as to why CR was not able to do clinics at SMH. In an email on 8 October 2019 Mrs McDermott reassured the claimant that "Nothing is yet set or agreed, I just wanted to ask some questions of the staff involved while I get feedback officially".
13. The claimant and Mrs McDermott then met on 9 October 2019. The claimant explained that the proposed changes would not be acceptable to her because she always required a rest day after a long travel day. She confirmed that her own working arrangements followed earlier recommendations from the OH Department. Mrs McDermott agreed to check with OH to try to accommodate recommendations for both employees.
14. Mrs McDermott referred the claimant to OH on 6 November 2019 and stated "Could Delia be seen to review her needs and provide support. If possible, any advice to me regarding Delia's working hours/pattern would be helpful while I review the other request with the staff member involved and HR".
15. By email dated 5 November 2019 Mrs McDermott informed the claimant that the Human Resources department (HR) had advised her to make changes to support CR but that she had spoken to HR given the claimant's agreed working hours following her own previous OH recommendations. She attached a proposed change with a suggested printed rota which involved the claimant working at Barncoose rather than Hayle but that this would revert to WCH if and when a new band 6 employee was "up and running". Mrs McDermott asked the claimant for her feedback.
16. By return email on 6 November 2019 the claimant made it clear that she did not accept the proposals and she stated: "Unfortunately, as it stands, I will struggle with the proposed changes. I have been covering [CR]'s clinics on numerous occasions while she has been off sick and the extra travelling has already had an adverse effect on my health. To have this changed imposed on me permanently is, I believe, unsustainable." The claimant also stated that she was showing significant signs of stress and anxiety with "sleepless nights, raging tinnitus, and thumping headaches." She confirmed that she had also self-referred to OH.
17. By email dated 13 November 2019 Mrs McDermott reassured the claimant: "Just to let you know that I met with [CR] and there are currently no changes being made to your working pattern." As of this date therefore we are satisfied that the respondent had not imposed any change in the claimant's agreed working hours, pattern or venues.
18. The position was therefore as normal pending further advice from OH, until 21 November 2019 when CR emailed the claimant directly to apologise to her, and to explain why there was going to be a change to their working days at WCH, and that this was likely to have an impact on the claimant as well. She thanked the claimant for offering to change her working days. This was not how the claimant had perceived developments, and she sent a copy of the email to Mrs McDermott on 22 November 2019. Mrs McDermott replied: "Please be assured that as we discussed on Wednesday nothing has changed and we have not agreed to anything other than tweaks to CR's appointments. Once I get your occupational health report I will discuss with HR and go from there. Sorry, you could do without the extra pressure." The claimant responded immediately saying: "Thanks for the reassurances Mel." As of this date therefore we

are satisfied that the respondent had not imposed any change in the claimant's agreed working hours, pattern or venues.

19. The First OH Report was a letter from Dr Hillary dated 3 December 2019. This letter records that the claimant had reported that she was being asked to give up one of her days at WCH to allow CR to work there. The respondent asserts that this was factually incorrect, but in any event the report confirmed that the claimant had been suffering "substantial psychological upset" and that the claimant was "struggling to remain at work". She was showing significant psychological symptoms such as disturbed sleep, poor concentration and raised anxiety levels. Dr Hillary reported that without the current three days a week at WCH and one day a week elsewhere the claimant was unlikely to manage to remain at work. This was because the extra travelling time and general disruption would have a negative impact on her mental health. Dr Hillary suggested an adjustment "to ensure that the volume of work she has to undertake can be managed within her normal working hours and without the need for her to come into work early and work through her lunch break to complete it. I would also suggest that the adjustment she has in place to work three days a week at WCH remains in place." He also referred to the respondent's counselling services which were available to support the claimant, and he commented that the claimant was likely to be covered by the disability provisions of the Equality Act. As can be seen from the above, no mention was made of any potential difficulty on the part of the claimant in attending Barncoose.
20. On 10 December 2019 Mrs McDermott then sent an email to the claimant headed "Proposed Changes" stating: "I've had the official report from your OH visit and as you say it requests three days at WCH. I've updated the proposal as attached. Have a look and see what you think. Happy to arrange a meeting to discuss." That email attached a proposed four weekly rota for the claimant. Weeks one and three were identical to the claimant's existing agreed working pattern (namely WCH on Monday and Tuesday, Treliske on Wednesday, day off on Thursday to recuperate from that commute, and WCH on Friday). Weeks two and four were different only in this respect: Tuesday was to be at Barncoose rather than WCH, and the Wednesday would be at nearby WCH rather than Treliske, (which had entailed the longer commute).
21. This appeared to accommodate the claimant in the sense that Barncoose was an easier commute than Treliske (because Camborne is nearer to her home than Truro); the claimant still had the Thursday off; and the claimant still had three out of four days each week at WCH. These proposed arrangements remained consistent with the claimant's existing contractual arrangements, and we also find that it complied with the OH recommendations of Dr Hillary. The claimant has confirmed that she objected to it only in respect of weeks two and four, because she was now asked to work at Barncoose on a Tuesday, which she also says is a long commute, but which was followed by another working day (Wednesday at WCH). Although her day off was the same, on the Thursday, it did not immediately follow what she says was a long commute to Barncoose with the need to recuperate on the following day.
22. The claimant also stated in evidence at this hearing that she was unable to work one day every alternative week at Barncoose because of a trauma which she had earlier suffered there, which relates to an allegation of bullying by a nurse at that venue. However, she did not raise this in her email of 13 December 2019 to Mrs McDermott in her reply to these Proposed Changes. Similarly, this appears never to have been raised with Dr Hillary, because no mention of this appears in his report.
23. On 13 December 2019 Mrs McDermott took emergency leave for personal reasons and another manager namely Mrs Alice Roberts became involved. She met with the claimant on 16 December 2019. The claimant asserts that at that meeting Mrs Roberts "prevailed upon her" to accept the new rota and that it was effectively being forced upon her. The claimant declined to agree it.
24. On Friday, 20 December 2019 on arrival at her clinic the claimant found that the necessary equipment had been removed, and she felt under pressure because she could not commence her normal work. In addition, she encountered an altercation with an unpleasant patient. The combination of the stresses caused the claimant to take

sickness absence. She did not return to work on Monday, 23 December 2019. The claimant remained on certified sick leave, and she never returned to work.

25. There was then an exchange of emails between the claimant and Mrs McDermott from 27 December 2019 to 2 January 2020. The claimant complained about her perception that a decision had been made to make a permanent change and that she was expecting an interview with HR or other correspondence before any changes were implemented. Mrs McDermott's reply was to the effect that HR had advised that changes had to be made (to accommodate CR who was unable to work two consecutive days because of her disability), but that she had not changed the claimant's contractual hours or days and suggested that they discuss the matter further. Mrs McDermott's conclusion was that no agreement as to the proposals been reached because the claimant was off sick. We agree with that conclusion.
26. As is normal the respondent then published proposed rotas for the coming weeks which included suggested new timetabling for the claimant. The claimant had access to these draft rotas and assumed that final changes had been made. Mrs McDermott's position was that the claimant was off sick, and no changes had been made to her working pattern because they had not been agreed, and the rotas were in draft form only to show Mrs McDermott what clinics she needed to cover.
27. The claimant was then reviewed by OH on 7 February 2020 and the subsequent reports confirm that the claimant felt that Dr Hillary's advice had not been followed and she returned to lots of stress at work. The claimant was receiving counselling and had been referred for specialist counselling to help with issues from her past. She remained unfit to return to work and the report suggested that the claimant was "highly unlikely to become fit to return to work within the next 2 to 3 months and possibly longer."
28. The respondent has an Attendance Management Policy which applies in cases of extended ill-health. Mrs McDermott decided to apply that Policy, and she agreed to meet the claimant. There was a long-term sickness review meeting under that Policy on 21 February 2020. Mrs McDermott did not inform the claimant that a representative from HR would be present and when the claimant saw Ms Honeychurch from HR was present, she suffered a panic attack. When she recovered from this the claimant was able to confirm that she wished for the meeting to continue.
29. Mrs McDermott confirmed their discussions at that meeting in a detailed letter dated 21 February 20. They discussed in detail the claimant's medical position and the OH referrals and previous reports. Mrs McDermott confirmed in that letter the following: "We discussed your concerns about WCH and Barncoose, some of which were unknown to me. We discussed the timetable and how in its current format it causes you anxiety. I explained the timetable is in flux and the items allocated to you are to ensure we cover them not that you would be at these clinics. We discussed what a phased return would look like. I explained this would be planned prior to your return, we would look to build up your hours/days over weeks with regular checks on progress and adjustments made as needed. We discussed that you need longer appointment times on a permanent basis. During the phased return this will be manually applied and then it would be added into your clinics on a permanent basis once we have agreed your work pattern. Should you need further support going forward we would look at this in terms of reasonable adjustments and if necessary, a change in hours … Unfortunately, no post can be held open indefinitely however we want to do all we can to support you to return to your post and will do what we can to facilitate this."
30. The claimant was subsequently reviewed by OH, on 8 April 2020. Dr Flewitt reported that the claimant had improved and was fit for a trial return to normal duties. However, because of "residual psychological symptoms" she was not fit for a full return to work or immediate redeployment. At this time the country was subject to national lockdown because of the Covid pandemic and Dr Flewitt recommended that she should remain at home until the pandemic had eased, but to continue with counselling.
31. The claimant remained on certified sickness absence, and Mrs McDermott advised the payroll department to maintain the claimant's sick pay, and after an exchange of emails with the claimant they agreed to meet again for a further long-term absence review

meeting on 26 June 2020. Mrs McDermott did not write to the claimant to confirm that she was entitled be accompanied at that meeting in accordance with the Policy. In addition, Mrs McDermott had not sent a copy of the Attendance Management Policy to the claimant in accordance with that Policy but did so immediately after the meeting on 26 June 2020.

32. In a detailed letter on 29 June 2020 Mrs McDermott confirmed the position to the claimant. The claimant's symptoms were discussed in detail and the claimant had reported feeling more fragile and that she had not improved. They discussed potential adjustments which might be needed to help to facilitate her return. The claimant suggested she would now need to be working close to home all the time (that is to say four days a week at WCH). She said that she had had a negative experience at Barncoose and did not wish to work there. Mrs McDermott's evidence is that this is the first occasion on which the claimant had indicated that she needed to work all four days a week at WCH, and that there was a difficulty in her working at Barncoose.
33. At that stage the claimant was not fit to undertake a trial of a phased return to work and had raised new symptoms. Mrs McDermott decided to refer the claimant to OH again and to arrange for a further sickness review meeting on 6 August 2020. Mrs McDermott sent a detailed letter to the claimant on 6 August 2020 confirming what had taken place at that meeting. The claimant explained her current symptoms and that her anxiety issues were "through the roof". She reported feeling worse since the last meeting and complained of breaches of the Policy. The claimant suggested that if support been put in place before she had gone off sick she would have been able to remain in work. She raised concerns about her meeting with Mrs Roberts and also stated that Mrs McDermott was a barrier to her return because of a disagreement which they had had some 15 years or more ago. The claimant declined an offer of mediation to explore this further and the respondent agreed to investigate concerns about financial support and a possible injury allowance.
34. Mrs McDermott and the claimant then had a further absence review meeting on 18 August 2020. The claimant suggested that she felt burnt out, unsupported, and that her needs had not been heard. Mrs McDermott confirmed again that the respondent would be able to put in place an adjustment to accommodate longer appointment times if the claimant was able to return to work. The claimant complained that CR had been prioritised over her needs and was dismissive of CR's needs. Mrs McDermott explained that at every stage she had tried to balance both CRs needs and those of the claimant whilst at the same time managing the needs of the service. Mrs McDermott also conceded that she should have shared OH referral documents with the claimant as suggested in the Policy.
35. Mrs McDermott and the claimant agreed to meet again on 23 September 2020 and agreed to arrange a further OH review and report. Unfortunately, that report was not available at the meeting on 23 September 2021. The claimant reported that she was still unwell and was unable to concentrate. The claimant accused the respondent of having put her in this position and asked for compensation. The claimant did not feel that any adjustments could be made to support a return to work. The parties agreed to meet again when the OH report was available.
36. Mrs McDermott subsequently resigned from the respondent's employment for personal reasons with effect from 23 October 2020 and Mrs Roberts took over the management of the claimant's sickness absence. On 2 November 2020 the claimant then raised a formal grievance, largely involving Mrs McDermott's handling of the matter, which is discussed further below.
37. There was then a final sickness review meeting on 8 December 2020. The claimant attended this meeting and was assisted by a friend who was a trade union representative for NASUWT. Mrs Roberts attended, and she was assisted by Mrs Warren of HR from whom we have heard. Another manager Mr Gray attended. He did not give his evidence in person to this tribunal because his statement had earlier been accepted by the claimant. The claimant explained at that meeting that she remained unwell and that she needed her husband's help for simple tasks at home. There had

been no improvement in the symptoms which had previously been described. The claimant referred to her grievance and confirmed that regardless of the outcome of the grievance she could not feel that she could return to work. She confirmed that she was not well enough to return to her role even if adjustments were to be made, and that she did not wish to consider redeployment. She also confirmed that she had made the decision to apply for ill-health retirement.

38. Mr Gray was deputising at that meeting for Mrs Roz Davies, from whom we have heard, who as a General Manager had authority to dismiss. However, Mr Gray did not have that authority. He reviewed the matter and concluded that dismissal was the last remaining option available and that he would recommend to Mrs Davies that the respondent proceeded to dismiss the claimant. The claimant accepted that that was an appropriate outcome and had expressed her intention to apply for ill-health retirement. The respondent confirmed it would support that application. This was all confirmed in Mrs Roberts' letter to the claimant after that meeting on 8 December 2020.
39. There was then some delay before the recommended dismissal was confirmed. As agreed the respondent forwarded to the claimant the relevant forms to apply for ill-health retirement. Further advice from the OH Department on 13 January 2021 confirmed that the claimant was unfit for work and that it was "unlikely that she will become fit to return to work in the foreseeable future. There are no adjustments that could now be made that would change this." The claimant decided to put her application for ill-health retirement on hold pending the conclusion of the grievance process. During March 2020 the claimant was offered a further review meeting but did not pursue this opportunity.
40. By letter dated 30 April 2021 Mrs Davies wrote to the claimant confirming her dismissal for capability (extended ill-health). The dismissal was on notice which was due to expire on 22 July 2021. The claimant was afforded the right of appeal against the decision to dismiss, but she did not appeal.
41. Mrs Davies confirmed in her evidence to us that before she confirmed her decision to dismiss the claimant, she considered "the bigger picture". She had to balance a number of interconnected considerations. These included that the claimant had been absent on sick leave for over a year and that this had had a detrimental effect on the provision of the audiology service. This included a number of elements caused by the claimant's absence, such as increased waiting times for patients, additional work and additional stress on colleagues, and the ability of the respondent to allocate resources to each of the clinic venues. The inability to cover these different venues repeatedly had an impact on some patients because it was a rural community with poor transport links, and not all patients could easily reach all of the venues, if at all. It was also difficult to attract and retain locum cover because of the Covid pandemic. Mrs Davies accepted that the claimant felt that she had not been properly supported, but the claimant had agreed that dismissal was the appropriate course of action, and there did not seem to be any other viable option. In addition, dismissing the claimant would enable Mrs Davies to seek to recruit a full-time replacement for the claimant. For all of these reasons Mrs Davies decided that the claimant's dismissal was the appropriate course of action to take.
42. We did not hear any detailed evidence in connection with the claimant's grievance because the parties helpfully agreed at the commencement of this hearing that these issues were not directly relevant to the claims before us. In short, the position was as follows. There was a grievance hearing on 5 May 2021 and the claimant's grievance was partially upheld by Mrs Bellis. She rejected the complaint that Mrs McDermott had not followed the OH advice in December 2019, and she also rejected the complaint that Mrs McDermott prioritised the health needs of CR ahead of those of the claimant, and had not listened to what the claimant needed. She partially upheld a complaint about the timing of the meeting which the claimant had had with Mrs Roberts in December 2019. Mrs Bellis also upheld the claimant's complaints that Mrs McDermott had not forwarded a copy of the relevant policy; had not communicated with her effectively about the format of the absence review meeting on 21 February 2020; and

had not discussed with the claimant her referrals to OH. Mrs Bellis also dealt with the complaint concerning late payment of sick pay, and partially upheld the claimant's grievance with regard to the delay between the recommendation for dismissal and the actual letter of dismissal.

43. The claimant appealed that finding and following a grievance appeal meeting on 13 September 2021 Mr Dean partially upheld the appeal. Mr Dean rejected the appeal that the respondent had prioritised the health of CR over that of the claimant, and he rejected the complaint that Mrs McDermott's proposed rotas were not in accordance with the earlier OH advice. He rejected a complaint relating to the overpayment and how that was communicated. Mr Dean partially upheld the claimant's complaint with regard to the extended delay between recommending dismissal and the letter.
44. On 23 September 2021 the claimant commenced the Early Conciliation process with ACAS (Day A) and ACAS issued the Early Conciliation Certificate on 20 October 2021 (Day B). The claimant presented these proceedings on 3 November 2021.
45. Having established the above facts, we now apply the law.
46. <u>The Law</u>
47. The reason for the dismissal was capability which is a potentially fair reason for dismissal under section 98(2)(a) of the Employment Rights Act 1996 ("the Act").
48. We have considered section 98 (4) of the Act which provides "…. the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) – (a) depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and – (b) shall be determined in accordance with equity and the substantial merits of the case".
49. This is also a claim alleging discrimination because of the claimant's disability under the provisions of the Equality Act 2010 ("the EqA"). The claimant complains that the respondent has contravened a provision of part 5 (work) of the EqA. The claimant alleges discrimination arising from a disability, and a failure by the respondent to comply with its duty to make adjustments.
50. The protected characteristic relied upon is disability, as set out in section 6 and schedule 1 of the EqA. A person P has a disability if he has a physical or mental impairment that has a substantial and long-term adverse effect on P's ability to carry out normal day to day activities. A substantial adverse effect is one that is more than minor or trivial, and a long-term effect is one that has lasted or is likely to last for at least 12 months, or is likely to last the rest of the life of the person.
51. As for the claim for discrimination arising from disability, under section 15 (1) of the EqA a person (A) discriminates against a disabled person (B) if A treats B unfavourably because of something arising in consequence of B's disability, and A cannot show that the treatment is a proportionate means of achieving a legitimate aim. Under section 15(2), this does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability.
52. The provisions relating to the duty to make reasonable adjustments are to be found in sections 20 and 21 of the EqA. The duty comprises of three requirements, of which the first is relevant in this case, namely that 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, there is a requirement to take such steps as it is reasonable to have to take to avoid that disadvantage. A failure to comply with this requirement is a failure to comply with a duty to make reasonable adjustments. A discriminates against a disabled person if A fails to comply with that duty in relation to that person. However, under paragraph 20(1)(b) of Schedule 8 of the EqA A is not subject to a duty to make reasonable adjustments if A does not know, and could not reasonably be expected to know – (a) in the case of an applicant or potential applicant, that an interested disabled person is or may be an applicant for the work in question; (b) … that an interested disabled person has a disability and is likely to be placed at the disadvantage referred to in the first, second or third requirement.

53. The provisions relating to the burden of proof are to be found in section 136 of the EqA, which provides in section 136(2) that if there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred. However by virtue of section 136(3) this does not apply if A shows that A did not contravene the provision. A reference to the court includes a reference to an employment tribunal.
54. We have considered the cases of Environment Agency v Rowan [2008] IRLR 20 EAT; Ishola v Transport for London [2020] ICR 1024 CA; Nottinghamshire City Transport Ltd v Harvey [2013] EqLR 4 EAT Newham Sixth Form College v Sanders EWCA Civ 7 May 2014; Archibald v Fife Council [2004] IRLR 651 HL; General Dynamics Information Technology Ltd v Carranza [2015] ICR 169 EAT; Robertson v Bexley Community Service [2003] IRLR 434 CA; Department of Constitutional Affairs v Jones [2008] IRLR 128 EAT; Chief Constable of Lincolnshire Police v Caston [2010] IRLR 327 CA; Pnaiser v NHS England [2016] IRLR 170 EAT; Basildon & Thurrock NHS Foundation Trust v Weerasinghe UKEAT/0397/14; Nottingham City Transport v Harvey [2013] EqLR 4 EAT; McCullough v ICI Plc [2008] IRLR 846; Homer v West Yorkshire Police [2012] IRLR 601 SC; O'Brien v Bolton St Catherine's Academy [2017] EWCA Civ 145; Hensman v Ministry of Defence UKEAT 0067/14/DM; Spencer v Paragon Wallpapers Ltd [1976] IRLR 373 EAT; GE Daubney v East Lindsey District Council [1977] IRLR 181 EAT; S v Dundee City Council [2013] IRLR 131 CS; O'Brien v Bolton St Catherine's Academy [2017] EWCA Civ 145; and Polkey v A E Dayton Services Ltd [1988] ICR 142 HL. We take these cases as guidance, and not in substitution for the provisions of the relevant statutes.
55. We have also considered section 207A of the Trade Union and Labour Relations (Consolidation) Act 1992, and in particular section 207A(2), (referred to as "s. 207A(2)") and the ACAS Code of Practice 1 on Disciplinary and Grievance Procedures (2015) ("the ACAS Code").
56. Decision
57. The claimant's claims to be determined by this Tribunal were agreed at a case management preliminary hearing and set out in the Case Management Order of Employment Judge Livesey dated 28 April 2022. The claimant then clarified two aspects of the issues by further letter dated 11 May 2022. The claimant's claims are for disability discrimination, (being discrimination arising from disability, and an alleged failure to make adjustments), and for unfair dismissal. We deal with each of these claims in turn
58. The Claimant's Disability:
59. The disability relied upon by the claimant is depression. For the reasons explained in findings of fact above, we find that at all material times the claimant suffered from a mental impairment which had a substantial and long-term adverse effect on the claimant's ability to carry out normal day to day activities, which includes sleeplessness, tinnitus, headaches, all of which affected her concentration. There was a substantial adverse effect because it was more than minor or trivial, and there was a long-term effect because it lasted for at least 12 months.
60. The respondent has conceded that the claimant was a disabled person by reason of the impairment relied upon at all material times. We agree with that concession, and we so find.
61. Discrimination Arising from Disability s15 EqA:
62. The claimant's claim is limited to one act of less favourable treatment, namely her dismissal. The claimant's case is that her extended sickness absence arose from her disability and that this was the cause of her dismissal.
63. The proper approach to section 15 claims was considered by Simler P in the case of Pnaiser v NHS England at paragraph 31: (a) Having identified the unfavourable treatment by A, the ET must determine what caused it, i.e. what the "something" was. The focus is on the reason in the mind of A; it involves an examination of the conscious or unconscious thought processes of A. It does not have to be the sole or main cause of the unfavourable treatment but it must have a significant influence on it. (b) The ET

must then consider whether it was something "arising in consequence of B's disability". The question is one of objective fact to be robustly assessed by the ET in each case. Furthermore: (c) It does not matter in precisely what order the two questions are addressed but, it is clear, each of the two questions must be addressed, (d) the expression "arising in consequence of" could describe a range of causal links … the causal link between the something that causes unfavourable treatment and the disability may include more than one link, and (e) the more links in the chain there are between the disability and the reason for the impugned treatment, the harder it is likely to be to establish the requisite connection as a matter of fact.

64. The respondent's position is set out in paragraphs 66 and 67 of its Amended Grounds of Resistance. The respondent accepts that the claimant's dismissal amounted to unfavourable treatment which arose in consequence of the claimant's ongoing long-term sickness absence, which in turn was caused by her disability. The respondent seeks to justify this unfavourable treatment as follows: "[67] … The management of the claimant's sickness absence through the use of the Policy was a proportionate means of achieving a legitimate aim to improve the health, well-being, attendance and performance of the Respondent's staff, helping them to return to the job that they were employed to do in the interests of the service and patient care".
65. The position thus far is therefore that the claimant will succeed in her claim under for discrimination arising from her disability unless the unfavourable treatment of dismissal can be justified in accordance with the provisions of section 15 EqA, namely that the respondent is able to show that the treatment is a proportionate means of achieving a legitimate aim.
66. In assessing the legitimate aim defence, the tribunal must consider fully whether (i) there is a legitimate aim which the respondent is acting in pursuance of, and (ii) whether the treatment in question amounts to a proportionate means of achieving that aim (McCullough v ICI Plc). As noted in O'Brien v Bolton St Catherine's Academy in cases involving capability dismissals, the aim will almost inevitably be legitimate. The central issue for the tribunal in the majority of cases, and particularly in this, is whether dismissal was a proportionate means of achieving that aim.
67. The respondent asserts that there are three constituent elements to the legitimate aim, namely: (i) patient care and the interests of the audiology service; (ii) helping its staff to return to the job that they were employed to do; and (iii) improving the health well-being attendance and performance of its staff generally. We consider each of these in turn.
68. With regard to the interests of the service and patient care, it is clear that the audiology service was very busy, and the absence of the claimant as a senior audiologist with no likely return to work was having an impact on waiting lists and patient care. Not only did absence affect the number of appointments which could be undertaken, but also the location of those appointments. The consequence of losing clinics had the worst effects on patients with limited mobility or limited funds who would have had to wait for later appointments at inconvenient locations.
69. Secondly, the respondent had exhausted all possible options to facilitate the claimant's return to work, and the only remaining option was the agreed dismissal. There was no other way in which the respondent (as at the time of dismissal) could help further to assist the claimant to return to work.
70. Thirdly, the respondent clearly had a responsibility in respect of the general health and well-being, and attendance and performance of its other audiology staff. Losing the claimant's capacity as a senior audiologist who completed clinics over four days a week added to the burden on her former colleagues in the audiology service. Dismissing the claimant enabled the respondent to recruit a replacement to reduce pressure on other members of staff.
71. We have no hesitation in finding that the respondent acted in pursuance of a legitimate aim. The final question which therefore arises is whether the unfavourable treatment of dismissal was a proportionate means of achieving that legitimate aim.

72. The test of proportionality is an objective one. A helpful summary of the proper approach is provided in Bolton St Catherine's Academy v O'Brien UKEAT/0051/15/LA: "[109] - A leading authority on issues of justification and proportionality is Homer v Chief Constable of West Yorkshire Police [2012] IRLR 601 in which Lady Hale quoted extensively from the decision of Mummery LJ in R (Elias) v Secretary of State for Defence [2006] 1WLR 3213. Lady Hale cited a passage in his judgment when Mummery LJ said: "151 … The objective of the measure in question must correspond to a real need and the means used must be appropriate with a view to achieving the objective and be necessary to that end. So it is necessary to weigh the need against the seriousness of the detriment to the disadvantaged group."
73. In Hensman v Ministry of Defence Singh J held that when assessing proportionality, while an ET must reach its own judgment, that must in turn be based upon a fair and detailed analysis of the working practices and business considerations involved, having particular regard to the business needs of the employer.
74. This is an unusual case, because as noted below in our conclusion on the unfair dismissal claim, the position at the time of the claimant's dismissal was as follows: (i) the claimant had been on extended sickness absence for over a year; (ii) there was no likelihood of any imminent return to work; (iii) the respondent had before it an accurate medical diagnosis and prognosis relating to the claimant's condition and likely return; (iv) the claimant did not wish to consider redeployment or possible reasonable adjustments; (v) the claimant's absence continued to cause difficulties within the provision of the audiology service, both to colleagues and patients; (vi) the respondent genuinely believed that the claimant was no longer capable of fulfilling her duties; (vii) the respondent could not be expected to wait any longer; and (viii) the claimant agreed that dismissal was appropriate.
75. The respondent submits that the above circumstances amount to one of the "obvious" cases referred to in O'Brien. We agreed with that submission. Against the above background we unanimously find that the claimant's dismissal was proportionate in the context of achieving the stated legitimate aim.
76. We therefore dismiss the claimant's claim for discrimination arising from disability under section 15 EqA.
77. Reasonable Adjustments
78. In this case the claimant relies on two PCPs, which in turn, together with the substantial disadvantage relied upon, are set out below:
79. PCP 1 is a requirement for the claimant to work the changed shift/rota pattern. The claimant alleges that with her pre-existing four-day week she had a rest day which followed the day when she visited her most distant clinic (Treliske), and that this allowed her to recuperate. The claimant alleges that the change implemented in 2019 placed a rest day earlier in the week and the substantial disadvantage relied upon is that this did not provide her the opportunity for recuperation from the day when she worked at the most distant clinic. This was subsequently clarified by the claimant who objected to the long travel day being moved to the Tuesday when it had previously been on the Wednesday, which meant that the rest day did not immediately follow the long travel day.
80. To put this in context, this refers to the suggested change of rota which was sent to the claimant under cover of Mrs McDermott's email of 10 December 2019 headed "Proposed Changes".
81. The respondent's position is set out in paragraph 71 of its Amended Grounds of Resistance. It does not accept that PCP 1 was applied at all and the respondent denies that the claimant was required to work an amended shift rota pattern as alleged, or at all. The respondent asserts: "Changes were made to CR's working pattern whilst the claimant was on sick leave as it would not have been acceptable to delay the changes that her health required any longer. The claimant's shift pattern was not changed while she was on sick leave and would not have changed had she returned from sick leave without further consultation."

82. PCP 2 is a requirement for the claimant to work extended hours and/or to work through lunch. The substantial disadvantage relied upon is increased stress caused by the increased workload which the claimant asserts was identified by Occupational Health.
83. The respondent also denies that this PCP was ever in place. It denies that the claimant was ever required to work extended hours, or to work through her lunch hour.
84. The constituent elements of claims in respect of an alleged failure to make reasonable adjustments are set out in Environment Agency v Rowan. Before considering whether any proposed adjustment is reasonable, the Tribunal must identify: (i) the provision, criterion or practice applied by or on behalf of the employer; (ii) the identity of the non-disabled comparators (where appropriate); and (iii) the nature and extent of the substantial disadvantage suffered by the claimant.
85. Environment Agency v Rowan has been specifically approved by the Court of Appeal in Newham Sixth Form College v Sanders - the authorities make it clear that to find a breach of the duty to make reasonable adjustments, an employment tribunal had first to be satisfied that there was a PCP which placed the disabled person at a substantial disadvantage in comparison with persons who were not disabled. The tribunal had then to consider the nature and extent of the disadvantage which the PCP created by comparison with those who were not disabled, the employer's knowledge of the disadvantage, and the reasonableness of proposed adjustments.
86. As per HHJ Richardson at para 37 of General Dynamics Information Technology Ltd v Carranza UKEAT/0107/14 KN: “The general approach to the duty to make adjustments under section 20(3) is now very well-known. The Employment Tribunal should identify (1) the employer's PCP at issue; (2) the identity of the persons who are not disabled with whom comparison is made; and (3) the nature and extent of the substantial disadvantage suffered by the employee. Without these findings the Employment Tribunal is in no position to find what, if any, step it is reasonable for the employer to have to take to avoid the disadvantage. It is then important to identify the "step". Without identifying the step it is impossible to assess whether it is one which it is reasonable for the employer to have to take”.
87. In addition, it is clear from Ishola v Transport for London, that although a PCP will not be narrowly construed, nonetheless the concept does not apply to every act of unfair treatment of a particular employee. It must be capable of being applied to others, and it suggests a state of affairs which indicates how similar cases are generally treated or how a similar case will be treated if it occurred again. This is consistent with Nottinghamshire City Transport Ltd v Harvey which states “practice connotes something which occurs more than on a one-off occasion and which has an element of repetition about it”.
88. Against this background our decision is as follows:
89. The first PCP relied upon, PCP 1, is an alleged requirement for the claimant to work the changed shift/rota pattern. The claimant alleges that with her pre-existing four-day week she had a rest day which followed the day when she visited her most distant clinic (Treliske), and that this allowed her to recuperate. The claimant alleges that the change implemented in 2019 placed a rest day earlier in the week and the substantial disadvantage relied upon is that this did not provide her the opportunity for recuperation from the day when she worked at the most distant clinic.
90. This refers to the proposed four weekly rota for the claimant which was attached to Mrs McDermott’s email to her dated 10 December 2019. Weeks one and three were identical to the claimant’s agreed working pattern (namely WCH on Monday and Tuesday, Treliske on Wednesday, day off on Thursday to recuperate from that commute, and WCH on Friday). Weeks two and four were different only in this respect: Tuesday was to be at Barncoose rather than WCH, and the Wednesday would be at WCH rather than Treliske.
91. This appeared to accommodate the claimant in the sense that Barncoose was an easier commute than Treliske (because Camborne is nearer her home than Truro); the claimant still had the Thursday off; and the claimant still had three out of four days each week at WCH. To that extent it complied with the OH recommendations of Dr Hillary.

The claimant has confirmed that she objected to it in respect of weeks two and four when she was now required to work at Barncoose on a Tuesday, which she also says is a long commute, but which was followed by another working day (Wednesday at WCH), rather than the Thursday day off to recuperate.

92. We find that there are a number of difficulties with this claim. We do not accept that there was ever such a PCP in place. There was a proposed changed rota to this effect sent to the claimant on 10 December 2019. It is clear from the email exchanges which followed that this was only ever a proposed change. The emails are even headed "Proposed Changes". The respondent remained able and willing to seek to agree a compromise both before and after the commencement of the claimant's sickness absence after 20 December 2019. At no stage was the claimant ever told that this revised work pattern had been imposed upon her.
93. Secondly, we are not satisfied that this proposed change work pattern caused any substantial disadvantage to the claimant when compared to people without her disability. The proposed change complied with the recommendations of the OH report by maintaining three of the claimant's four working days at West Cornwall Hospital, and the claimant agreed in cross-examination that it was a fair compromise.
94. The claimant has failed to discharge the burden of proof to the effect that this PCP was ever in place, and if it was, that she suffered substantial disadvantage by reason of disability as a result.
95. In any event, and as a preliminary jurisdictional point, the claim in respect of this alleged failure to make a reasonable adjustment was presented out of time. The claimant asserts that this rota was imposed upon her on 27 December 2019, and that the respondent should have made adjustments at that time. The normal limitation period of three months therefore expired on 26 March 2019. The claimant did not approach ACAS under the Early Conciliation Provisions until 23 September 2021, and the Early Conciliation Certificate was issued on 20 October 2021. She presented these proceedings on 3 November 2021, which was approximately 18 months late.
96. The relevant case management order made it clear that limitation was a potential issue to be determined at this hearing. The claimant did not present any evidence to explain why proceedings in respect of this adjustment were not issued within the relevant time limit, and she did not present any evidence as to why it would be just and equitable to extend that time limit.
97. It is clear from the following comments of Auld LJ in Robertson v Bexley Community Service that there is no presumption that a tribunal should exercise its discretion to extend time, and the onus is on the claimant in this regard: "It is also important to note that time limits are exercised strictly in employment and industrial cases. When tribunals consider their discretion to consider a claim out of time on just and equitable grounds there is no presumption that they should do so unless they can justify failure to exercise the discretion. Quite the reverse, a tribunal cannot hear a complaint unless the applicant convinces it that it is just and equitable to extend time so the exercise of discretion is the exception rather than the rule". These comments have been supported in Department of Constitutional Affairs v Jones [2008] IRLR 128 EAT and Chief Constable of Lincolnshire Police v Caston [2010] IRLR 327 CA.
98. In this case the PCP relied upon by the claimant did not exist; there was no substantial disadvantage to the claimant as a result of the alleged PCP; and in any event the claim was presented out of time. For these reasons we dismiss this claim.
99. The second PCP, which is PCP 2, is a requirement for the claimant to work extended hours and/or to work through lunch. The substantial disadvantage relied upon is increased stress caused by the increased workload which the claimant asserts was identified by Occupational Health.
100. Again, we find that there was no such PCP in place. The respondent's evidence was clear to the effect that none of the claimant's managers, whether Mrs McDermott or otherwise, had ever instructed the claimant work extended hours and/or to work through lunch. This was conceded by the claimant in her cross-examination. It is also clear from the first sickness review meeting on 21 February 2020 that this issue had

been discussed and addressed, and the respondent was willing to allow longer appointment times during a phased return to work, and subsequently on a permanent basis. There was simply no requirement or understanding that the claimant or others should work extended hours, and no PCP to that effect.

101. In addition, this second claim was also presented out of time. The claimant asserts that the PCP was in place at the time of Dr Hillary's OH report on 3 December 2019. The normal limitation period of three months therefore expired on 2 March 2020. These proceedings were not presented until 3 November 2021, at least 18 months out of time. For the reasons explained above for the first reasonable adjustments claim, we do not accept that it is just and equitable to extend time.

102. In respect of the reasonable adjustments claim relying on PCP 2, we find that there was no such PCP in place, and in any event the claim was presented out of time. For these reasons this claim is also dismissed.

103. Unfair Dismissal s98(4) of the Act

104. We have considered section 98 (4) of the Act which provides "…. the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) – (a) depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and – (b) shall be determined in accordance with equity and the substantial merits of the case".

105. The starting point should always be the words of section 98(4) themselves. In applying the section, the tribunal must consider the reasonableness of the employer's conduct, not simply whether it considers the dismissal to be fair. In judging the reasonableness of the dismissal, the tribunal must not substitute its own decision as to what was the right course to adopt for that of the employer. In many (though not all) cases there is a band of reasonable responses to a set of factual circumstances within which one employer might take one view, and another might quite reasonably take another. The function of the tribunal is to determine in the particular circumstances of each case whether the decision to dismiss the employee fell within the band of reasonable responses which a reasonable employer might have adopted. If the dismissal falls within the band the dismissal is fair: if the dismissal falls outside the band it is unfair.

106. In general terms there are two important aspects to a fair dismissal for long term illness or for injury involving long-term absence from work. In the first place, where an employee has been absent from work for some time, it is essential to consider whether the employer can be expected to wait longer for the employee to return (see Spencer v Paragon Wallpapers Ltd). In S v Dundee City Council the Court of Session held that the Tribunal must expressly address this question and balance the relevant factors in all the circumstances of the individual case. Such factors include whether other staff are available to carry out the absent employee's work; the nature of the employee's illness; the likely length of his or her absence; the cost of continuing to employ the employee; the size of the employing organisation; and, balanced against those considerations, the "unsatisfactory situation of having an employee or very lengthy sick leave".

107. The second important aspect is that a fair procedure is essential. This requires in particular consultation with the employee; a thorough medical investigation (to establish the nature of the illness or injury, and its prognosis); and consideration of other options, in particular alternative employment within the employer's business. An employee's entitlement (if any) to enhanced ill health benefits will also be highly relevant.

108. The importance of full consultation and discovering the true medical position was stressed by the EAT in East Lindsay District Council v Daubney. Mr Justice Phillips stated: "Unless there are wholly exceptional circumstances, before an employee is dismissed on the grounds of ill-health it is necessary that he should be consulted and the matter discussed with him, and that in one way or another steps should be taken

by the employer to discover the true medical position. We do not propose to lay down detailed principles to be applied in such cases, for what will be necessary in one case may not be appropriate in another. But if in every case employers take such steps as are sensible according to the circumstances to consult the employee and to discuss the matter with him, and to inform themselves upon the true medical position, it will be found in practice that all that is necessary has been done … Only one thing is certain, that is that if the employee is not consulted, and given an opportunity to state his case, an injustice may be done".

109. In this case the claimant has made a number of concessions. The claimant concedes that the respondent genuinely believed that she was no longer capable of performing her duties. The claimant also accepts that the respondent adequately consulted with her. In addition, the claimant concedes that the respondent carried out a reasonable investigation and this includes ensuring that they were aware of the relevant up-to-date medical diagnosis and prognosis. The claimant made it clear that she did not wish to consider redeployment, and she agreed she would not be able to return to work even with the implementation of any reasonable adjustments. Furthermore, the claimant accepts that the respondent could not reasonably be expected to wait any longer before reaching the decision to dismiss. Indeed, she accepts that at the time of her dismissal both she and the respondent agreed that it was appropriate that her dismissal should take effect.

110. The claimant has made a number of criticisms of the procedure which was adopted during the implementation of the Absence Management Procedure. These include occasions upon which the respondent failed to notify her that a representative from HR would be present at a meeting; that she was entitled to be accompanied at meetings under the procedure; she should have been given a copy of the relevant procedure earlier than she was; that she should have been notified in more detail about Occupational Health referrals and reports; and there was an element of delay between Mr Gray's indication that he would recommend dismissal, and her actual dismissal some four months later. Notwithstanding these criticisms, the claimant accepts the position that in the round the procedure adopted by the respondent was reasonable, and she does not seek to argue that the procedure adopted was unreasonable or deficient in such a way as to render the dismissal unfair.

111. The claimant's challenge to the fairness of the respondent's decision to dismiss is limited to this, namely that the claimant's dismissal arose in circumstances which had been caused by the respondent in the first place, and that therefore the decision to dismiss was not one which a reasonable employer could have made, and it was therefore unfair.

112. We have already rejected the claims relating to reasonable adjustments and discrimination arising from disability, there was therefore no background of unlawful discrimination by the respondent which can be said to have tainted its decision to dismiss. In any event no changes had been imposed on the claimant at the time that she went on sickness absence, and thereafter the respondent made it clear that it was prepared to make adjustments to the claimant's workload. At the time of dismissal matters had progressed such that the claimant could not return to work even with adjustments. The respondent had done everything it reasonably could to try to facilitate a return to work. The unfortunate reality was that the respondent's only remaining option was to dismiss the claimant on the grounds of ill-health capability, which was a cause of action with which she agreed at the time.

113. Our task is to determine whether the respondent's decision to dismiss the claimant was fair and reasonable in all the circumstances of the case as at the time that decision was taken. We also have to consider the employer's size and administrative resources, which in this case were extensive. Put another way, this tribunal is not permitted to substitute its view as to what might have been a reasonable course of action, but rather it has to determine whether the decision to dismiss was within the band of reasonable responses open to a reasonable employer when faced with these facts.

114. We have already decided that the decision to dismiss was not tainted by any act of discrimination. We bear in mind the following factors: (i) the claimant had been on extended sickness absence for over a year; (ii) there was no likelihood of any imminent return to work; (iii) the respondent had before it an accurate medical diagnosis and prognosis relating to the claimant's condition and likely return; (iv) the claimant did not wish to consider redeployment or possible reasonable adjustments; (v) the claimant's absence continued to cause difficulties within the provision of the audiology service, both to colleagues and patients; (vi) the respondent genuinely believed that the claimant was no longer capable of fulfilling her duties; (vii) the respondent could not be expected to wait any longer; and (viii) the claimant agreed that dismissal was appropriate.

115. In these circumstances we unanimously find that the claimant's dismissal was within the band of reasonable responses open to the respondent when faced with these facts, and that the respondent acted fairly and reasonably in all the circumstances of the case. We therefore also dismiss the claimant's claim that she was unfairly dismissed.

116. For the purposes of Rule 62(5) of the Employment Tribunals Rules of Procedure 2013, the issues which the tribunal determined are at paragraph 1; the findings of fact made in relation to those issues are at paragraphs 4 to 44; a concise identification of the relevant law is at paragraphs 46 to 55; how that law has been applied to those findings in order to decide the issues is at paragraphs 56 to 115.

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Employment Judge N J Roper
Dated 7 October 2022

Judgment sent to Parties on
12 October 2022 By Mr J McCormick

For the Tribunal Office