



EMPLOYMENT TRIBUNALS

Claimant: Mr. K Nottra

Respondent: Santander UK Plc

Heard at: Via Cloud Video Platform

On: 11th & 12th January 2021
13th January 2021 (In Chambers)

Before: Employment Judge Heap (Sitting alone)

Representation

Claimant: In person

Respondent: Mr. P Thompson - Counsel

COVID-19 Statement

This has been a remote hearing which has been consented to by the parties. The form of remote hearing was V – fully remote. A face to face hearing was not held because it was not practicable and no-one requested the same and all issues could be determined in a remote hearing.

RESERVED JUDGMENT

1. The Claimant was at all material times a disabled person within the meaning of Section 6 Equality Act 2010 in respect of anxiety disorder. The Claimant was not disabled within the meaning of Section 6 Equality Act 2010 by reason of stress which I am satisfied was a manifestation of his anxiety disorder nor by reason of depression which he has never pleaded as a disability and of which I have no evidence of a diagnosis at the material time.
2. The Claimant's application to amend the claim succeeds in part and the allegations that he is permitted to pursue are set out in Annex two to this Judgment.
3. Complaints numbered 2, 3, 4, 5, 6, 7, 9, 12, 13 14, 16 and 18 within the table of complaints set out at Annex one to this Judgment were presented outside the time limit provided for by Section 123 Equality Act 2010 but they are permitted to proceed because it is just and equitable to extend the time limit.

4. Allegation 8 within the table at Annex one is struck out under Rule 37 Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 on the basis that it has no reasonable prospect of succeeding. All other applications for a strike out or for Deposit Orders to be made are refused.
5. The remaining allegations that the Claimant is permitted to pursue are therefore now set out in the table at Annex two to this Judgment.
6. There will be a telephone Preliminary hearing to make Orders for the final hearing and relist it for the full merits hearing. The date for the Preliminary hearing will be notified to the parties in due course. They should provide any dates to avoid within 7 days of the date that this Judgment is sent to the parties.

REASONS

BACKGROUND & THE ISSUES

1. This Preliminary hearing was listed following an earlier one conducted by Employment Judge Ahmed on 29th October 2020. The issues that I am required to determine are as follows:
 - (i) Whether the Claimant was a disabled person within the meaning of Section 6 Equality Act 2010;
 - (ii) Whether the complaints of sex and disability discrimination had been issued outside the time limit in Section 123 Equality Act 2010 and, if so, whether it is just and equitable to allow them to proceed out of time;
 - (iii) Whether any of the complaints of sex and disability discrimination should be struck out under Rule 37 Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 (“The Regulations”) if they have no reasonable prospect of success;
 - (iv) Whether any of the complaints of sex and disability discrimination should be subject to Deposit Orders under Rule 39 of the Regulations 2013 if they have little reasonable prospect of success; and
 - (v) Whether the Claimant should be given leave to amend his claim by way of an application made on 23rd October 2020.
2. I did not determine point (v) above as the Claimant abandoned the amendment application that he had made on 23rd October 2020 save as to the limited extent set out below.
3. In this regard, I heard from the parties as to the need for amendment and it was the Respondent’s case that a number of the complaints that the Claimant sought to advance in Scott Schedules filed on 2nd March 2020 were not in the ET1 Claim Form and therefore required a successful application to amend in order to be advanced.
4. We spent some considerable time over the course of this Preliminary hearing discussing the various complaints that the Claimant was seeking to advance and identifying the factual and legal basis of them. Following discussion, those complaints were distilled by me into the table which is annexed to this Judgment

at Annex one. I circulated that table to the parties during the course of the hearing and following an adjournment the Claimant confirmed that that accurately represented all of the complaints that he was asking the Tribunal to determine. I have now added complaint numbers to each part of the Annex one table so that it can be cross referenced to the numbers referred to in this Judgment.

THE HEARING

5. The hearing proceeded via Cloud Video Platform (“CVP”). Whilst we did encounter some technical difficulties those were fortunately able to be overcome, and I am satisfied that we were able to have an effective hearing.
6. I apologise to the parties for the delay in the promulgation of this Judgment which was considerably longer than I had anticipated. Unfortunately, delay has resulted from IT difficulties, problems working remotely due to the pandemic without access to typing facilities and dealing with other cases. I sincerely hope that the delay has not caused either party any inconvenience.

THE LAW

The question of disability

7. Section 6 of the Equality Act 2010 (“EQA 2010”) provides as follows:

“Disability

(1) A person (P) has a disability if -

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

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

8. Section 212 EQA 2010 defines “substantial” as meaning “more than minor or trivial”.
9. The long-term effects of a disability are explained in Schedule 1 (Part 1) on “Determination of Disability”:

“Long-term effects

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

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

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

(c) it is likely to last for the rest of the life of the person affected.”

10. Schedule 1, paragraph 5, requires the effect of medication or other measures in alleviating the effects of a disability are to be ignored. In this regard:
- “(1) An impairment is to be treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities if -*
- (a) measures are being taken to treat or correct it, and*
- (b) but for that, it would be likely to have that effect.”*
11. Tribunals are required to consider, insofar as it is relevant to the proceedings before them, the provisions of the EHRC Code of Practice on Employment and the statutory Guidance on the definition of disability (“The Guidance”), the relevant parts of which to these proceedings state as follows:
12. Section B1 of the Guidance deals with the meaning of substantial adverse effects as follows:
- “The requirement that an adverse effect on normal day-to-day activities should be a substantial one reflects the general understanding of disability as a limitation going beyond the normal differences in ability which may exist among people. A substantial effect is one that is more than a minor or trivial effect.”*
13. Section B12 of the Guidance provides assistance on the question of the effects of treatment as already referred to at Schedule 1, paragraph 5. The relevant parts of Section B12 provide as follows:
- “The Act provides that where an impairment is subject to treatment or correction, the impairment is to be treated as having a substantial adverse effect if, but for the treatment or correction, the impairment is likely to have that effect. In this context, “likely” should be interpreted as meaning “could well happen”. The practical effect of this provision is that the impairment should be treated as having the effect that it would have without the measures in question”.*
14. Section C of the Guidance deals with the meaning of “long term effects” and Sections C3 and C4 deal with the meaning of “likely”. In this context, “likely” should be interpreted as meaning that it “could well happen”.
15. Section C4 sets out that in assessing the likelihood of an effect lasting for 12 months, account should be taken of the circumstances at the time of the alleged discriminatory act and anything which occurs after that time will not be relevant in assessing the likelihood. Account should also be taken of both the typical length of such an effect on an individual, and any relevant factors specific to the individual, such as general state of health or age.
16. Section D deals with normal day to day activities. Section D8 deals with specialised activities and that work related activities which are so highly specialised are such that they would not be regarded as normal day to day activities. Examples are given of delicate watch repairs and professional piano players when engaged in their “usual activities”.

17. D22 of the Guidance deals with indirect effects on day to day activities and provides as follows:

“D22. An impairment may not directly prevent someone from carrying out one or more normal day-to-day activities, but it may still have a substantial adverse effect on how the person carries out those activities. For example:

- *pain or fatigue: where an impairment causes pain or fatigue, the person may have the ability to carry out a normal day-to-day activity, but may be restricted in the way that it is carried out because of experiencing pain in doing so. Or the impairment might make the activity more than usually fatiguing so that the person might not be able to repeat the task over a sustained period of time.*
- *Medical advice: where a person has been advised by a medical practitioner or other health professional, as part of a treatment plan, to change, limit or refrain from a normal day-to-day activity on account of an impairment or only do it in a certain way or under certain conditions.”*

Striking out a claim or part of it – Rule 37 Employment Tribunal Constitution and Rules of Procedure Regulations 2013

18. Employment Tribunals must look to the provisions of Rule 37 Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 (“The Regulations”) when considering whether to strike out a claim.

19. Rule 37 provides as follows:

“At any stage of the proceedings, either on its own initiative or on the application of a party, the Tribunal may strike out all or part of a claim or response on any of the following grounds:

- (a) *That it is scandalous or vexatious or has no reasonable prospect of success.*
- (b) *That the manner in which the proceedings have been conducted by or on behalf of the Claimant or the Respondent (as the case may be) has been scandalous, unreasonable or vexatious;*
- (c) *For non-compliance with any of these Rules or with an order of the Tribunal;*
- (d) *That it has not been actively pursued;*
- (e) *That the Tribunal considers it is no longer possible to have a fair hearing in respect of the claim or response (or the part to be struck out.)”*

20. The only consideration for the purposes of this Preliminary hearing is whether the claim, or any part of it, can be said to have no reasonable prospect of success.

21. In dealing with an application to strike out all or part of a claim a Judge or Tribunal must be satisfied that there is “no reasonable prospect” of success in respect of that claim or complaint.
22. It is not sufficient to determine that the chances of success are fanciful or remote or that the claim or part of it is likely, or even highly likely to fail. A strike out is the ultimate sanction and for it to be appropriate, the claim or the part of it that is struck out must be bound to fail. As Lady Smith explained in **Balls v Downham Market High School and College [2011] IRLR 217, EAT** (paragraph 6):

“The Tribunal must first consider whether, on a careful consideration of all the available material, it can properly conclude that the claim has no reasonable prospects of success. I stress the words “no” because it shows the test is not whether the Claimant’s claim is likely to fail nor is it a matter of asking whether it is possible that his claim will fail. Nor is it a test which can be satisfied by considering what is put forward by the Respondent either in the ET3 or in the submissions and deciding whether their written or oral assertions regarding disputed matters are likely to be established as facts. It is, in short, a high test. There must be no reasonable prospects...”

23. Claims or complaints where there are material issues of fact which can only be determined by an Employment Tribunal will rarely, if ever be, apt to be struck out on the basis of having no reasonable prospect of success before the evidence has had the opportunity to be ventilated and tested.
24. Particular care is required where consideration is being given to the striking out of discrimination claims and that will rarely, if ever, be appropriate in cases where there are disputes on the evidence. However, if a claim can properly be described as enjoying no reasonable prospect of succeeding at trial, it will nevertheless be permissible to strike out such a claim.

Deposit Orders – Rule 39 Employment Tribunals (Constitution & Rules of Procedure Regulations 2013

25. Different considerations apply, however, in relation to Deposit Orders made under Rule 39 of the Regulations. Rule 39 provides as follows:

“(1) Where at a Preliminary Hearing (under Rule 53) the Tribunal considers that any specific allegation or argument in a claim or response has little reasonable prospect of success, it may make an order requiring a party (“the paying party”) to pay a deposit not exceeding £1,000 as a condition of continuing to advance that allegation or argument.

(2) The Tribunal shall make reasonable enquiries into the paying party’s ability to pay the deposit and have regard to any such information when deciding the amount of the deposit.”

26. Thus, a Tribunal may make a Deposit Order where a claim or part of it has little reasonable prospect of succeeding. However, this is not a mandatory requirement and whether to make such an Order, even where there is little reasonable prospect of success, remains at the discretion of the Tribunal to determine whether or not such should be made.

Jurisdiction

27. Section 123 Equality Act 2010 provides for the time limit in which proceedings must be presented in “work” cases to an Employment Tribunal and provides as follows:
- “Proceedings on a complaint within section 120 may not be brought after the end of—*
- (a)the period of 3 months starting with the date of the act to which the complaint relates, or*
- (b)such other period as the employment tribunal thinks just and equitable.*
- (2)Proceedings may not be brought in reliance on section 121(1) after the end of—*
- (a)the period of 6 months starting with the date of the act to which the proceedings relate, or*
- (b)such other period as the employment tribunal thinks just and equitable.*
- (3)For the purposes of this section—*
- (a)conduct extending over a period is to be treated as done at the end of the period;*
- (b)failure to do something is to be treated as occurring when the person in question decided on it.*
- (4)In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—*
- (a)when P does an act inconsistent with doing it, or*
- (b)if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.”*
28. Therefore, Section 123 provides that proceedings must be brought “*within a period of three months starting with the date of the act to which the complaint relates or any other such period as the Tribunal considers to be just and equitable*”. That three month time limit is subject to an extension for the period of ACAS Early Conciliation which also “stops the clock” for period that the parties are engaged in that process. If the matters complained of amount to conduct extending over a period, then time does not begin to run until the end of that period.
29. If a complaint is not issued within the time limits provided for by Section 123 Equality Act, that is not the end of the story given that a Tribunal will be required to go on to consider whether it is “just and equitable” to allow time to be extended and the complaint to proceed out of time.
30. In doing so, the Tribunal must have regard to all of the relevant facts of the case and is entitled to take account of anything that it considers to be relevant to the question of a just and equitable extension. A Tribunal has the same wide discretion as the Civil Courts and may pay regard to the provisions of Section 33 Limitation Act 1980, as modified appropriately to employment cases (see **British Coal Corporation v Keeble [1997] IRLR 336**).

31. In considering whether to exercise their discretion, a Tribunal will often consider factors relevant to the prejudice that each party would suffer if an extension were refused, including:
- The length of and reasons for the delay.
 - The extent to which the cogency of the evidence is likely to be affected by the delay.
 - The extent to which the party sued had co-operated with any requests for information.
 - The promptness with which the Claimant acted once they knew of the possibility of taking action.
 - The steps taken by the Claimant to obtain appropriate professional advice once they knew of the possibility of taking action.
32. The emphasis is on whether the delay has affected the ability of the Tribunal to conduct a fair hearing and all significant factors should be taken into account. However, the burden is upon a Claimant to satisfy a Tribunal that it is just and equitable to extend time to hear any complaint presented outside that provided for by Section 123 Equality Act 2010.

Amendment applications

33. Amendment applications fall to be considered by reference to the guidance in **Selkent Bus Co Ltd t/a Stagecoach Selkent v Moore [1996] IRLR 661 EAT.** That guidance requires a Tribunal to consider the following:

“Whenever the discretion to grant an amendment is invoked, the Tribunal should take into account all the circumstances and should balance the injustice and hardship of allowing the amendment against the injustice and hardship of refusing it.

(5) What are the relevant circumstances? It is impossible and undesirable to attempt to list them exhaustively, but the following are certainly relevant:

(a) The nature of the amendment

Applications to amend are of many different kinds, ranging, on the one hand, from the correction of clerical and typing errors, the additions of factual details to existing allegations and the addition or substitution of other labels for facts already pleaded to, on the other hand, the making of entirely new factual allegations which change the basis of the existing claim. The Tribunal have to decide whether the amendment sought is one of the minor matters or is a substantial alteration pleading a new cause of action.

(b) The applicability of time limits

If a new complaint or cause of action is proposed to be added by way of amendment, it is essential for the Tribunal to consider whether that complaint is out of time and, if so, whether the time limit should be extended under the

applicable statutory provisions e.g. in the case of unfair dismissal, S.67 of the 1978 Act.

(c) The timing and manner of the application

An application should not be refused solely because there has been a delay in making it. There are no time limits laid down in the Rules for the making of amendments. The amendments may be made at any time - before, at, even after the hearing of the case. Delay in making the application is, however, a discretionary factor. It is relevant to consider why the application was not made earlier and why it is now being made: for example, the discovery of new facts or new information appearing from documents disclosed on discovery. Whenever taking any factors into account, the paramount considerations are the relative injustice and hardship involved in refusing or granting an amendment. Questions of delay, as a result of adjournments, and additional costs, particularly if they are unlikely to be recovered by the successful party, are relevant in reaching a decision."

FINDINGS OF FACT – THE QUESTION OF DISABILITY & JURISDICTION

Disability

34. The parties should note that I have confined my findings of fact to those matters which are necessary for me to determine the disability question and in order to deal with the question of jurisdiction, but I have nevertheless taken account of all evidence and submissions that I have heard, whether or not those matters are specifically referred to in this Judgment or not.
35. The Claimant has told me at this hearing that he relies on anxiety disorder, stress and depression as the conditions which he says amount to disabilities for the purposes of this claim.
36. However, it has not always been entirely clear what condition(s) the Claimant has been relying on as being a disability. At an initial Preliminary hearing on 6th January 2020 before me the Claimant confirmed that the condition that he relied upon was anxiety disorder and that was what the position was also said to be in his ET1 Claim Form. However, on 29th October 2020 the Claimant told Employment Judge Ahmed at a further Preliminary hearing that he was relying on stress. No reference was made at that time to anxiety disorder. The Claimant has said today that he relies on both of those conditions along with depression. I should record here that the Claimant's pleaded case makes no mention of depression nor do his medical notes and records. The only reference to depression comes from a letter from his General Practitioner ("GP") to the Respondent which makes a brief reference to that condition.
37. I should observe, however, that the Claimant has other physical health conditions which also impact his mental health. Those include insomnia and gastritis for which he has also been prescribed medication. It is not clear whether the Claimant's mental health conditions are the cause of the physical symptoms or whether it is the other way around or, indeed, if the matters are not connected at all. As I understand it, the Claimant's GP has not yet been able to get to the bottom of that.

38. The Claimant first attended his GP on 5th January 2018 complaining of stress and poor sleeping patterns (page 135 of the hearing bundle). At that stage he was given a Statement of Fitness for Work ("Fit Note") certifying him as being unfit to attend work with the Respondent. He was given medication in the form of 5mg of Zolpidem.
39. He attended again four days later and told his GP that the medication was not working and that he was still experiencing difficulties sleeping. The diagnosis recorded at that time was "?? Anxiety". That was followed by a further visit to the GP on 15th January 2018 where a diagnosis of anxiety disorder was made (page 136 of the hearing bundle). At that stage the Claimant was moved onto 20mg of Citalopram. It is common knowledge that that is a form of anti-depressant medication.
40. The diagnosis of anxiety disorder was reinforced on 5th February 2018 when it was recorded that the Claimant was telling his GP that he felt down, depressed or hopeless, was having difficulties sleeping, was tired and had little energy, that he was overeating and having trouble concentrating such as that there were difficulties reading a newspaper or watching television. That entry supports the Claimant's evidence in his witness statement that he was struggling with day to day activities of that nature. Counselling was discussed and the Claimant was given a further prescription for Citalopram. Whilst Mr. Thompson contends that it is not clear if those symptoms might in fact have been caused by insomnia (which is not relied on as a disability) and not anxiety disorder, it is clear that the Claimant's GP had diagnosed them as being caused by the latter condition and prescribed anti-depressant medication as a result.
41. The Claimant was again diagnosed with anxiety disorder and with anxiety and stress on 4th May 2018. Although it was said that he was feeling "much better in himself" it was recorded that he was still suffering with sleep difficulties.
42. On 30th July 2018 the Claimant's prescription for Citalopram was increased to 30mg. That would suggest at worst a deterioration in his condition and at best no improvement. The Claimant has continued to be prescribed medication throughout the relevant period and has also had Cognitive Behavioural Therapy and counselling from Let's Talk (pages 141 and 142 of the hearing bundle) although the latter appeared to be for insomnia in the first instance at least.
43. The Claimant's medication was changed to 50mg of Sertraline, again an anti-depressant medication, on 9th October 2018 which accompanied a diagnosis of anxiety state. The Claimant's GP notes record that he began to "feel much better" taking that medication (see page 145 of the hearing bundle).
44. Other than the fact that the Claimant had begun at some stage to have returned to the gym, his evidence as to the effect on his day to day activities was not materially challenged by Mr. Thompson. Particularly, his evidence in his impact statement that he was unable to perform day to day activities such as washing, cleaning, cooking and reading and that he isolated himself from friends and family members and stopped taking their telephone calls and from socialising with them was not challenged and I accept his account in that regard. Particularly, his evidence as to difficulties with cooking was that he was unable to coordinate the preparation of a meal and as such relied on convenience foods such as pot noodles or microwave meals.

45. In addition, I also accept the Claimant's evidence that he struggled meeting new people and with interactions because that caused him to become anxious; that he struggled for similar reasons with travel on unknown or longer journeys and that he felt unable to attend his place of worship.
46. The Claimant's evidence was also not challenged that without the medication which he has taken continuously – and still continues to take – the effects on his day to day activities would be considerably worse. Particularly, I accept his evidence within his impact statement that at times that he was not taking his anti-depressant medication or when it was not effective he would be unable to get out of bed, shower or prepare a meal and that his social interactions were also affected.
47. Again, all of those matters set out at paragraphs 44 to 46 above were the type of symptoms that he was describing to his GP at the time that the diagnoses of anxiety disorder were made and as such I am satisfied that they manifested themselves from that condition and not from his insomnia.
48. On 9th October 2018 the Claimant's medication was changed to 50 mg of Sertraline and it was noted that he was to continue with Cognitive Behavioural Therapy ("CBT"). He continued to be prescribed the same medication throughout December and into January when he reported to his GP on 22nd January that he felt much better and was now exercising and was considering a return to work after his next review a week or so later. The Claimant was something of an avid gym user (see page 207 of the hearing bundle). During these periods, the diagnosis given to the Claimant was of stress and anxiety.
49. Later that same month the Claimant went on a four day trip to Berlin, but I accept his evidence that he was unable to enjoy the trip and was reliant on his friend who accompanied him to plan and coordinate their journeys around the city.
50. The Claimant continued to be prescribed the same medication at the same level into April 2019.
51. On 14th May 2019 the Claimant was diagnosed again with anxiety disorder. Around the same time the Claimant's GP noted that he was low in mood and due to attend a Tribunal (see page 147 of the hearing bundle).

Jurisdiction – whether it is just and equitable to extend time

52. As early as 10th August 2018 the Claimant was telling his GP that he was considering going to a Union with regard to problems at work (see page 140 of the hearing bundle). The Claimant is critical of his Union and contends that they did not properly advise him. There is some support for that at page 217 of the hearing bundle. He says that he was told nothing about Tribunal claims and nothing about time limits. Page 174 of the bundle recorded that into mid September the Claimant continued to "access support" from his Union but I accept that that was limited to Well Being meetings and that he was not, for example, put in touch with his Union's solicitors or even told that that was a possibility. I accept his evidence – which was in quite colourful terms – that he considered his Union's assistance to have been useless and that he is no longer a member as a result.

53. The Claimant met with his Trade Union representative on 18th October 2018 prior to a well being meeting with the Respondent. His evidence was that he had discussed with her what he described in his impact statement as being the harassment and discrimination that he was enduring at work and it was agreed that the matter would be picked up on another occasion. Again, there is some support there for the fact that the Union were not particularly pro-active in identifying if there was action that the Claimant was able to take outside the internal processes.
54. Although a rather unusual position given the general state of awareness about employment rights, I accept that the Claimant had no knowledge of Employment Tribunal proceedings and that that had not been included in human resources style training provided by the Respondent. Whilst he could have no doubt set about earlier research into the position, he was of course from January 2018 suffering from the effects of anxiety disorder and his evidence was that he had had to focus on his mental health and trying to recover rather than considering commencing litigation. I also accept that for him litigation was a last resort which he had hoped to avoid.
55. I also accept as above that he had no proper support from his trade union and that as he lives alone, he had no support network to turn to at home either.
56. The Claimant raised a grievance with the Respondent on 8th March 2019. As at the date that he presented his Claim Form he had still not had an outcome to the grievance (see page 8 of the hearing bundle) or a hearing date arranged.
57. By March 2019 the Claimant was in contact with ACAS, having become aware of them in either that month or February 2019 from a Google search and he was also in touch with the Employment Advisory Service who had, in terms, given him advice about discrimination and pursuing matters via a grievance (see page 217 of the hearing bundle).
58. By April 2019 the Claimant had returned to work but reported to his GP further problems that he perceived were occurring at work and he made a reference to having reported the matter to ACAS and his Trade Union (see page 147 of the hearing bundle).
59. The Claimant commenced ACAS early conciliation on 5th April 2019 and was issued with his early conciliation certificate on 16th April 2019. He presented his claim to the Tribunal on 15th May 2019. His evidence, which I accept, was that he had been pursuing matters internally via the grievance process but that by the time that he presented his claim he had had enough and felt that the Respondent was not dealing with the grievance properly and were “sweeping things under the carpet”.

CONCLUSIONS

The question of disability

60. It is necessary to firstly identify the material time with which the Claimant’s disability discrimination complaints are concerned. Those are said to have taken place between 6th February 2018 and 8th March 2019.

61. I therefore have to consider the Claimant's condition and what the landscape was as at those dates and I have therefore ignored, in accordance with Section C4 of the Guidance, anything that occurred after that date.
62. I am satisfied that the Claimant does have a mental impairment which is anxiety disorder. That has been clinically diagnosed by his GP and is recorded in his notes on more than one occasion. I do not consider the stress upon which the Claimant relies to be a separate condition or impairment for these purposes. It appears to me from the evidence in this case that his stress is a reaction to circumstances which the Claimant found to be difficult – most notably occurring when he experienced difficulties at work - or otherwise was a manifestation of his anxiety disorder.
63. I do not find that the Claimant had, at the material time, a mental impairment in respect of depression. That is not a matter which is recorded in his medical notes and records and the reference in the letter from his GP which was appended to his witness statement is insufficient to enable me to ascertain when and in what circumstances any such diagnosis was made.
64. Furthermore, that is not a matter which the Claimant has pleaded at any stage before this Preliminary hearing and no application to amend the claim has been made to deal with the identification of depression as another disability.
65. I then need to consider if the anxiety disorder from which the Claimant suffers has a substantial and long-term adverse effect on his ability to carry out day to day activities. That falls to be considered without the effect of medical treatment such as counselling and medication which the Claimant has been taking to combat those effects (see Section B12 of the Guidance).
66. I have accepted the Claimant's evidence that a number of what would clearly be considered as normal day to day activities were affected by his condition. Particularly, he lost interest in socialising, going to the gym and attending his place of worship and no longer undertook those activities, or at least in terms of attending the gym, not with the regularity that he previously had.
67. Moreover, he had difficulties preparing even a basic meal and instead had to rely on convenience foods nor could he plan or undertake longer or unfamiliar journeys. His concentration was affected so that he could not properly watch television or read a book. All of those are perfectly routine day to day activities.
68. Without the effects of the treatment which he was receiving, most notably his anti-depressant medication, I have accepted that the impact would have been even more significant and on such occasions when the Claimant was not taking that medication he was affected to such a degree that he was unable to get out of bed and attend to his personal hygiene by showering.
69. I am satisfied that having regard to the evidence before me that the Claimant's anxiety disorder had a more than minor or trivial (and thus substantial) effect on his ability to carry out day to day activities. He was prevented in this regard from undertaking basic and routine tasks which he was able to attend to prior to the onset of his anxiety disorder. For the reasons that I have already given in my findings of fact above, I do not accept that it was insomnia or some other condition which affected his ability to undertake normal day to day activities.

70. I also accept that the substantial adverse effects on the Claimant's ability to carry out day to day activities was one that was long term in that those effects had, as at 8th March 2019, lasted for more than 12 months.
71. I am therefore satisfied that having regard to all of the evidence before me the Claimant was, at all material times with which this claim was concerned, a disabled person within the meaning of Section 6 Equality Act 2010.

Amendment application – the table of complaints

72. As set out above, there were a number of complaints advanced by the Claimant which do not feature in the original ET1 Claim Form and need to be dealt with by way of an amendment application if they are to be permitted to proceed. Adopting the same numbering system as the table appended to this Judgment at Annex one those complaints are as follows:
- 1, 5, 6, 7, 9, 12, 13, 14, 15 and 17.
73. I deal with each of those proposed amendments separately save as for where the allegation is one which is advanced as more than one strand of discrimination.
74. It should be noted before turning to the application in substance, however, that there was an initial Preliminary hearing before me on 6th January 2020 at which I made plain to the Claimant that if he sought to advance any claim that was not already in the Claim Form then that needed to be dealt with as a written application to amend the claim. My Orders made plain that the Claimant needed to take that step before a further Preliminary hearing which was at that time due to take place on 27th March 2020 (see page 50 of the bundle).
75. That was in fact not done. The Claimant instead included other complaints in tables which he was Ordered to produce at the hearing on 6th January 2020 to set out the basis of his existing claims. He then made an amendment application on 23rd October 2020 which is now not pursued save as to the extent that within it the Claimant applied to include all complaints set out in tables which he had completed be included within the claim.
76. Due to the Covid-19 pandemic the Preliminary hearing did not take place on 27th March but instead was relisted for 29th October 2020. The Claimant would not have known that, however, until relatively shortly before it had been due to take place.
77. At the Preliminary hearing on 29th October, Employment Judge Ahmed converted this hearing from the full merits hearing to a further Preliminary hearing to deal with the issues that I have already identified at paragraph one above.
78. I then turn to deal with each of the amendments that the Claimant advances above. Dealing first with amendment number one which is a complaint of direct sex discrimination and the same factual allegation at number 15 which is a complaint of harassment.

79. This was not a complaint that was advanced at all in the Claim Form. It is not therefore simply re-labelling but the addition of entirely new factual allegations. It is also a very discrete complaint having regard to the other complaints referred to in the Claim Form and who was said to have perpetrated them.
80. In determining whether to allow the amendment I have considered the timing of the application. Whilst, despite the passage of time since the Claim Form was issued, the claim is still at a relatively embryonic stage it took the Claimant some considerable time to make the amendment application after he had been expressly told in early January 2020 that it should be made in a timely fashion and before the hearing scheduled for 27th March 2020. He did not make the application until a few days before the relisted Preliminary hearing in October 2020. However, that position is tempered by the fact that the Claimant has at all material times been a litigant in person; he is still suffering from the effects of his mental health condition and it is clear that he has struggled and continues to struggle with articulating his claim and taking procedural steps. The timing of the application is therefore not a fatal issue.
81. However, what is more problematic is that this is an extremely historic allegation dating back to either 2015 or 2016. That complaint is considerably out of time – by some four or five years - given that the Claimant did not make his amendment application until 23rd October 2020. The Claimant was not even able to identify at this Preliminary hearing precisely which year let alone month the alleged event in question took place. No good reason has been advanced by the Claimant as to why he could not have presented a Claim Form dealing with this allegation much earlier as his mental health was not a factor at that time. In 2015/16 he had the wherewithal to look into his employment rights.
82. The fact that this allegation occurred so long ago will also in my view have an impact on the cogency of the evidence. Indeed, as I have already observed the Claimant cannot even recall now the year that it occurred. The evidence on both sides is highly likely to be compromised.
83. Finally, I have also considered the balance of prejudice to the parties in permitting or refusing the amendment. I accept that there will be prejudice to the Respondent because of the historic nature of the allegation and the fact that the cogency of the evidence will be compromised. Whilst there will be some prejudice to the Claimant in that he will not be able to have that matter ventilated at a hearing that is tempered considerably by the fact that it cannot have been a matter of utmost concern to him given its omission from the Claim Form in the first place and the fact that I cannot see that the complaint itself would be likely to be meritorious in all events.
84. For all of those reasons, I have refused the Claimant's application to amend the claim to include allegation one and 15 on the table of allegations. I should observe that had I granted the amendment application I would have in all events struck out this part of the claim on the basis that it was not just and equitable to permit it to proceed for the reasons that I have already alluded to above.
85. The next allegation which did not feature in the Claim Form is allegation five which is a complaint of discrimination arising from disability and the same factual allegation is also included at number nine as an allegation of a failure to make reasonable adjustments.

86. Again, these were not matters that the Claimant expressly raised in his Claim Form. However, they are linked to allegations that the Claimant makes in that Claim Form as to how he alleges that he was discriminated against by reason of disability during his ill health absence and during a return to work. Unlike allegation one, therefore, they are not entirely discrete or totally unconnected allegations. The Claimant presented the Claim Form himself as a litigant in person. He had appended a long narrative to that Claim Form, including a copy of his grievance to the Respondent, and it is plain from what he included that he was under the impression that it need not be comprehensive and that he could add things later (see page 8 of the Preliminary hearing bundle). It is not unusual for litigants in person to be of that understanding and whilst it is not to be encouraged for parties to use the Claim Form as a “starting point”, it is not unreasonable for the Claimant to have given thought when asked about those matters to other issues that he wished to ventilate. That is not least given that he did at the time, and continues to, suffer with his mental health.
87. I would make the same observations about the timing of the application as I have already made above but again that it not determinative of the position.
88. Whilst these parts of the complaint are also out of time, which is another relevant factor to consider, that is not to the extent that allegation number one was and the Claimant has of course been able to provide precise dates for these aspects of the amendment application. I have not dealt with the question of a just and equitable extension of time within this part of the Judgment as I have dealt with that for all “out of time” complaints below. However, in short terms I am satisfied that there is a reasonable explanation for why the claim was not presented sooner.
89. I have also considered the balance of prejudice to the parties. Here, I consider that the balance of prejudice falls on the Claimant as he would not have the opportunity of having potentially (and I place it no higher than that) meritorious claims determined by the Tribunal. The only prejudice to the Respondent would be having to defend the complaints but that is not a relevant factor as they would have had to have done so if they were advanced in the Claim Form in the first place and I have noted in all events that the Respondent has been able to set out their response to these allegations already. There is no suggestion that the cogency of the evidence has been compromised by the delay and, unlike allegation one, there is doubtless documentation to deal with these matters.
90. I therefore grant the Claimant’s application to amend the claim to include allegations five and nine.
91. The next allegation which did not feature in the Claim Form is allegation six which is a complaint of discrimination arising from disability and the same factual allegation is also included at number 14 as a complaint of harassment. I have reached the same conclusions in respect of this aspect of the amendment application as I have for allegations five and nine and therefore I have also granted this part of the amendment application.
92. The next allegation which did not feature in the Claim Form is allegation seven which is a complaint of discrimination arising from disability and the same factual allegation is also included at number 12 as an allegation of a failure to make

reasonable adjustments. Again, I have reached the same conclusions in respect of this aspect of the amendment application as I have for allegations five and nine and therefore I have also granted this part of the amendment application.

93. The next allegation which did not feature in the Claim Form is allegation number 13 which is pursued as a complaint of a failure to make reasonable adjustments. Again, I have reached the same conclusions in respect of this aspect of the amendment application as I have for allegations five and nine and therefore I have also granted this part of the amendment application.
94. The final allegation which did not feature in the Claim Form is allegation number 17 which is pursued as a complaint of harassment relating to sex. Again, like allegation number one this is a discrete complaint which does not appear to link with any of the other complaints which are made in the Claim Form.
95. Again, the timing of the application is problematic – but not fatal - to the Claimant for the reasons already given in regard to allegation one.
96. Furthermore, unlike the other allegations, but akin to allegation number one, this is a much more historic allegation dating back to mid 2018 and that complaint is considerably out of time – by some two years - given that the Claimant did not make his amendment application until 23rd October 2020.
97. The fact that this allegation occurred so long ago will also in my view have an impact on the cogency of the evidence. That is not least as this was an alleged oral comment and the Claimant does not suggest that there is any contemporaneous documentary evidence which can assist in considering it.
98. Finally, I have also considered the balance of prejudice to the parties in permitting or refusing the amendment. I accept that there will be prejudice to the Respondent because of the historic nature of the allegation and the fact that the cogency of the evidence will doubtless be compromised. Whilst there will be some prejudice to the Claimant in that he will not be able to have that matter ventilated at a hearing that is again, like allegation one, tempered considerably by the fact that it cannot have been a matter of utmost concern to him given its omission from the Claim Form and also the fact that again like allegation number one I cannot see that the complaint itself would be likely to be meritorious.
99. For all of those reasons, I have refused the Claimant's application to amend the claim to include allegation 17 on the table of allegations.

Jurisdiction

100. I turn then to the question of jurisdiction of the Tribunal to hear the complaints of discrimination advanced by the Claimant which have been presented outside the time limit provided for by Section 123 Equality Act 2010.
101. It is common ground that the Claimant did not commence early conciliation via ACAS until 16th April 2019 before presenting his ET1 Claim Form on 15th May 2019. On the face of it, therefore, any discrimination complaint pre-dating 17th January 2019 has been presented outside the time limit provided for by Section 123 Equality Act 2010. All of the amended complaints are also out of time given

that the Claimant did not make his application to amend the claim until 23rd October 2020.

102. The Claimant contends that the acts are all acts continuing over a period and so, as he presented his claim within 3 months less one day of the last act, they should all be treated as being in time. Alternatively, the Claimant says that it would be just and equitable to extend time because of the state of his health; that he had concentrated on his health rather than litigation and had been attempting to resolve matters via internal means with a claim to the Tribunal being the last resort.
103. The Respondent contends to the contrary and says that there is no good reason for the failure to bring the claim in time and that it is not just and equitable to allow them to proceed.
104. Dealing firstly with the Claimant's contention that all discrimination complaints – be that disability or sex – were a continuing course of conduct, I reject that argument. Different acts and different people were involved and the Claimant has not identified anything, other than a general assertion to that effect, that there is any link in the individual acts of which he complains.
105. It is therefore necessary to consider whether it is just and equitable to extend time.
106. I accept the Claimant's evidence that he did not receive much, if any, advice and support from his trade union and particularly that he was not advised about the possibility of bringing a Tribunal claim. It is also plain from his Claim Form that he saw litigation as the last resort and was seeking to resolve matters via the Respondent's grievance procedure. Moreover, he had no support network at home which could assist him with either looking into what rights he had or with his mental health.
107. The Claimant was not informed by his trade union that they had solicitors who he could have been referred to for advice and I accept his evidence that he had no previous knowledge of Employment Tribunals until he started to make enquiries when his health enabled him to do so and he then turned to ACAS for advice in February/March 2019. He then acted promptly in initiating early conciliation once he became aware from ACAS of the possibility of issuing proceedings.
108. The Claimant's evidence was that his mental health took priority – and I do not consider that unreasonable - but by April 2019 he had, in his words, "had enough" and was tired of matters being "swept under the carpet" and felt that he had no choice but to pursue the matter in the Tribunal. I accept that litigation was not his intended course and that he had hoped to resolve matters internally via the grievance process and without recourse to the Tribunal.
109. Those matters and the effects of the Claimant's mental health – which I accept from his impact statement affected him to a significant degree – provide an explanation as to why these aspects of the claim were not have been presented in time.
110. Different considerations apply as to the time limit for the amendments to the claim which I have allowed above. As I have already observed, the Claimant had

been expressly told in early January 2020 that he should make any amendment application in a timely fashion and before the hearing scheduled for 27th March 2020. He did not make the application until a few days before the relisted Preliminary hearing in October 2020. However, again that position is tempered by the fact that the Claimant has at all material times been a litigant in person; he is still suffering from the effects of his mental health condition and it is clear that he has struggled and continues to struggle with articulating his claim. Therefore, I consider that there is an explanation for the delay and this is not a fatal issue.

111. Unlike allegation one, there is not a significant delay in the Claimant having presented his claim once he knew of the possibility of doing so. Moreover, there is nothing to reasonably suggest that the cogency of the evidence has been affected by the delay in presenting the claim and, indeed, the Respondent has been able to set out adequately their responses to each of the complaints that he has made. Moreover, a number of the matters of which he complains were also the subject of investigation via a grievance process and I am therefore satisfied that there is no prejudice to the Respondent in their defence of the parts of the claim that have been presented out of time.
112. For all of those reasons I therefore consider it to be just and equitable to allow the complaints that have been presented out of time to proceed to a full merits hearing.
113. The complaints that the Claimant is permitted to proceed are therefore set out in the table at Annex two.

Strike out or Deposit Order

114. Mr. Thompson contends that all of the claim should be struck out although he did not in his submissions deal with each of the allegations advanced in turn and instead concentrated on the fact that the position of the Respondent is that essentially the Claimant wanted to bring a complaint of bullying and harassment and this claim is his second best option. It is said that he has had to then try and find a basis to do so. Whilst it is clear that the Claimant has had difficulties in articulating his claim, there is nothing before me to suggest that he has chosen the route of bringing a Tribunal claim as a second best option. It is a point for cross examination at a full hearing. Other than one complaint which I deal with at paragraph 116 below, I am not persuaded that any of the remaining complaints have either no reasonable prospect of success or little reasonable prospect of success. I agree with the Claimant's contention that this is a case where the evidence needs to be ventilated and tested.
115. Mr. Thompson did specifically submit that all of the allegations of sex discrimination should either be struck out or made subject to a deposit Order because they were without foundation. I decline to make any Orders in that regard or strike out the sex discrimination claims because those complaints all hinge on the fact that the Claimant contends that the alleged perpetrator of those acts habitually favoured female members of her team – who she referred to as “her girls” – over male members of the team. Whilst the Respondent denies that, the motivation of the individual in question can only be determined once the Tribunal have had the benefit of hearing her evidence and she has been cross examined.

116. As I have indicated above, there is one complaint which I have nevertheless determined should be struck out because it has no reasonable prospect of succeeding. Whilst I am alive to the fact that the striking out of a discrimination complaint should only happen in the most exceptional circumstances, allegation 8 is one such circumstance. I say that on the basis that the Claimant has not, even now, been able to identify what substantial disadvantage the provision, criterion or practice ("PCP") is said to have put him at even if such a PCP was in fact applied. Substantial disadvantage is a key ingredient of a claim for a failure to make reasonable adjustments and the Claimant has, thus far, been given considerable assistance by the Tribunal in framing his claims. If he still cannot articulate a key ingredient to this aspect of the claim by this stage, it appears to me that that is simply because there is none and this allegation is therefore doomed to failure. It is apt that it be struck out on the basis that it has no reasonable prospect of success.
117. The claim will now be listed for a telephone Preliminary hearing to make further Orders to progress to a full merits hearing.

Employment Judge Heap

Date: 6th April 2021

JUDGMENT SENT TO THE PARTIES ON

Note:

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

Annex one

Direct sex discrimination (Section 13 Equality Act 2010)

Allegation Number	Date	Act complained of	Comparator and reason why
1	2015/2016	Comment made by Gurpreet Sogi that it was	Hypothetical comparator. It is the Claimant's case that

		found odd that the Claimant did not need a woman in his life.	this was a comment directly related to his sex because of the reference to his relationship status.
2	18.03.2017	Sarah Johnson's challenge to or quizzing of the Claimant regarding attending a funeral.	Hypothetical comparator. It is the Claimant's case that Sarah Johnson favoured women over men and relies on her references to "her girls" within the team.
3	02.06.2017	Sarah Johnson's challenge to or quizzing of the Claimant regarding attending a hospital appointment.	Hypothetical comparator. It is the Claimant's case that Sarah Johnson favoured women over men and relies on her references to "her girls" within the team.
4	02.08.2018	Challenge by Sarah Johnson to how long the Claimant had taken to move his car.	Hypothetical comparator. It is the Claimant's case that Sarah Johnson favoured women over men and relies on her references to "her girls" within the team.

Discrimination arising from disability (Section 15 Equality Act 2010)

Allegation Number	Date	Unfavourable treatment	How that treatment arose from disability
5	06.06.2018	Being required to make time up to attend medical appointments	The medical appointments were for treatment/advice regarding the Claimant's disability.
6	16.11.2018	Comments of Simon Bates over the Claimant's SP performance rating and his attempts to overturn that.	The comments and attempts to overturn the rating were on the basis of the Claimant's disability related sickness absence.
7	01.03.2019	Being required to make up time to attend a job interview.	The job interview was necessary because the Claimant needed a non-customer facing role because of his disability.

Failure to make reasonable adjustments (Section 20 and 21 Equality Act 2010)

Allegation Number	Date	PCP relied upon	Substantial disadvantage	Adjustment that is contended would ameliorate that disadvantage
8	06.02.2018 20.04.2018 18.10.2018	The practice of ticking boxes to say that disability had been discussed when it had not.	Not presently identified.	Not presently identified.
9	06.06.2018	The requirement to make up time taken off for medical appointments	The Claimant required more time off than someone without his disability because that disability required him to regularly attend medical appointments.	Being permitted to attend the appointments without having to make the time back up.
10	11.02.2019	The requirement to undertake work with a customer facing element at Carlton Park.	Dealing face to face with customers exacerbated stress and anxiety.	Move the Claimant to a non customer facing role such as an administrative position.
11	11.02.2019	The requirement to undertake the full range of duties of a Personal Banker role.	The requirement to do so exacerbated the Claimant's feelings of stress and anxiety.	Move the Claimant to a non customer facing role such as an administrative position.
12	01.03.2019	The requirement to make up time to attend a job interview.	The Claimant had to attend the interview to try and secure a non-customer facing role and was disadvantaged by having to make up the time.	Allow the Claimant to attend the interview without having to make the time up.

13	08.03.2019	The requirement to attend an internal interview to secure an alternative position.	The requirement to attend the interview exacerbated stress.	Offer the Claimant an alternative role without the need to attend interview.
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Harassment (Section 26 Equality Act 2010) relating to disability

Allegation Number	Date	Harassment complained of	Reason it relates to disability
14	16.11.2018	Comments of Simon Bates over the Claimant's SP performance rating and his attempts to overturn that.	The comments and attempts to overturn the rating were on the basis of the Claimant's disability related sickness absence.

Harassment (Section 26 Equality Act 2010) relating to sex

Allegation Number	Date	Harassment complained of	Reason it relates to sex
15	2015/2016	Comment made by Gurpreet Sogi that it was found odd that the Claimant did not need a woman in his life.	It is the Claimant's case that this was a comment that related to his sex because of the reference to his relationship status.
16	18.03.2017	Sarah Johnson's challenge to or quizzing of the Claimant regarding attending a funeral.	It is the Claimant's case that Sarah Johnson favoured women over men and relies on her references to "her girls" within the team.
17	07.06.2018	Simon Bates comment that if the Claimant was "pulling his todger" he would move him to the University branch.	The phrase referenced male genitalia.
18	02.08.2018	Challenge by Sarah Johnson to how long the Claimant had taken to move his car.	It is the Claimant's case that Sarah Johnson favoured women over men and relies on her

			references to “her girls” within the team.
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Annex two

Direct sex discrimination (Section 13 Equality Act 2010)

Allegation Number	Date	Act complained of	Comparator and reason why
2	18.03.2017	Sarah Johnson’s challenge to or quizzing of the Claimant regarding attending a funeral.	Hypothetical comparator. It is the Claimant’s case that Sarah Johnson favoured women over men and relies

			on her references to “her girls” within the team.
3	02.06.2017	Sarah Johnson’s challenge to or quizzing of the Claimant regarding attending a hospital appointment.	Hypothetical comparator. It is the Claimant’s case that Sarah Johnson favoured women over men and relies on her references to “her girls” within the team.
4	02.08.2018	Challenge by Sarah Johnson to how long the Claimant had taken to move his car.	Hypothetical comparator. It is the Claimant’s case that Sarah Johnson favoured women over men and relies on her references to “her girls” within the team.

Discrimination arising from disability (Section 15 Equality Act 2010)

Allegation Number	Date	Unfavourable treatment	How that treatment arose from disability
5	06.06.2018	Being required to make time up to attend medical appointments	The medical appointments were for treatment/advice regarding the Claimant’s disability.
6	16.11.2018	Comments of Simon Bates over the Claimant’s SP performance rating and his attempts to overturn that.	The comments and attempts to overturn the rating were on the basis of the Claimant’s disability related sickness absence.
7	01.03.2019	Being required to make up time to attend a job interview.	The job interview was necessary because the Claimant needed a non-customer facing role because of his disability.

Failure to make reasonable adjustments (Section 20 and 21 Equality Act 2010)

Allegation Number	Date	PCP relied upon	Substantial disadvantage	Adjustment that is contended would ameliorate that disadvantage
9	06.06.2018	The requirement to make up time taken	The Claimant required more	Being permitted to attend the

		off for medical appointments	time off than someone without his disability because that disability required him to regularly attend medical appointments.	appointments without having to make the time back up.
10	11.02.2019	The requirement to undertake work with a customer facing element at Carlton Park.	Dealing face to face with customers exacerbated stress and anxiety.	Move the Claimant to a non customer facing role such as an administrative position.
11	11.02.2019	The requirement to undertake the full range of duties of a Personal Banker role.	The requirement to do so exacerbated the Claimant's feelings of stress and anxiety.	Move the Claimant to a non customer facing role such as an administrative position.
12	01.03.2019	The requirement to make up time to attend a job interview.	The Claimant had to attend the interview to try and secure a non-customer facing role and was disadvantaged by having to make up the time.	Allow the Claimant to attend the interview without having to make the time up.
13	08.03.2019	The requirement to attend an internal interview to secure an alternative position.	The requirement to attend the interview exacerbated stress.	Offer the Claimant an alternative role without the need to attend interview.

Harassment (Section 26 Equality Act 2010) relating to disability

Allegation Number	Date	Harassment complained of	Reason it relates to disability
14	16.11.2018	Comments of Simon Bates over the Claimant's SP performance rating and his attempts to overturn that.	The comments and attempts to overturn the

			rating were on the basis of the Claimant's disability related sickness absence.
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Harassment (Section 26 Equality Act 2010) relating to sex

Allegation Number	Date	Harassment complained of	Reason it relates to sex
16	18.03.2017	Sarah Johnson's challenge to or quizzing of the Claimant regarding attending a funeral.	It is the Claimant's case that Sarah Johnson favoured women over men and relies on her references to "her girls" within the team.
18	02.08.2018	Challenge by Sarah Johnson to how long the Claimant had taken to move his car.	It is the Claimant's case that Sarah Johnson favoured women over men and relies on her references to "her girls" within the team.