



# EMPLOYMENT TRIBUNALS

**Claimant:** A

**Respondent:** The Chief Constable of Thames Valley Police

**Heard at:** Reading

**On:** 20, 21 & 23 May &  
6 August  
and in chambers:  
7 August &  
9 October 2024

**Before:** Employment Judge Anstis  
Ms E Gibson  
Ms H T Edwards

## Representation

Claimant: Mr N Snell

Respondent: Mr E Macdonald (counsel)

# RESERVED JUDGMENT

The claimant's claims are dismissed.

# REASONS

## INTRODUCTION

### Rule 50 order

1. This claim is subject to an order under rule 50 in the following terms:

*“Pursuant to rules 50(1) and (3)(b) of the Employment Tribunals Rules of Procedure 2013, it being in the interests of justice to do so, it is ORDERED that there shall be omitted or deleted from any document entered on the Register, or which otherwise forms part of the public record, including the Tribunal's hearing lists, any identifying matter which is likely to lead*

*members of the public to identify any of the persons specified below as being either a party to or otherwise involved with these proceedings:*

*This order applies to the following persons: the claimant”*

2. As discussed with the parties, for the purposes of this decision we regard the order as requiring us to construct these reasons as we normally would, but substituting “A” where necessary for the name of the claimant.

### **The claim**

3. The claimant was a police officer. Her claim is of disability discrimination: that is, discrimination arising from disability and a failure to make reasonable adjustments.
4. The disabilities that the claim relates to are complex PTSD, PTSD, anxiety and/or depression, which the respondent accepts to have been disabilities at all material times for the claim. The matters relied upon by the claimant as arising from her disabilities are:
  - her absences from work
  - her inability to deal with certain types of work in her role and her (alleged) inability to perform to the standard the respondent required of her, and
  - her sporadic consumption of alcohol.
5. It is accepted by the respondent that at least some of the claimant’s absences from work arose from her disabilities. It is not clear at this early stage whether *“inability to deal with certain types of work ...”* adds anything to that or is accepted by the respondent, nor is it clear whether the respondent accepts that sporadic consumption of alcohol is a matter arising from her disabilities. On the latter point, Mr Macdonald’s primary submission was that the respondent had never taken any action against the claimant because of sporadic consumption of alcohol. While the allegations of misconduct arose on occasions when the claimant had been drinking, it was the respondent’s case that it was the claimant’s behaviour on those occasions that was the problem, not the fact that she had been drinking or her sporadic consumption of alcohol.
6. Mr Snell was at pains to point out in his closing submissions that the claimant *“is not, was not and never has been an alcoholic or alcohol-dependant”*. Indeed, part of the claimant’s case is that the respondent was wrong on various occasions to consider the claimant’s alcohol consumption went beyond simply sporadic consumption as a consequence of her disabilities.
7. The issues for determination in this hearing are set out in the appendix to these reasons. The claimant sought at the start of that hearing to amend her

claim by the addition of further claim(s) but that was refused by us at the start of the hearing for reasons given orally at the time. We have adjusted the two tables in the appendix a little for formatting purposes and to give the individual allegations numbers, starting with RA for a complaint of a failure to make reasonable adjustments and with AD for a claim of discrimination arising from disability. We have at this stage omitted matters in relation to remedy. We have labelled the legitimate aims said to be pursued by the respondent LA1-9.

8. The claimant's complaints centre around the respondent's operation of various procedures in respect of her conduct and sickness absence, including the UPAP, which is the "Police Officer Unsatisfactory Performance and Attendance Policy". As the name suggests, this encompasses both performance and attendance issues. Some reference has been made during the hearing separately to UPP and UAP to distinguish between the performance and attendance aspects of the policy.
9. The complaints of discrimination arising from a disability and a failure to make reasonable adjustments are closely related, but in general it can be said that the complaints of discrimination arising from a disability are about the conduct and outcome of the various policies and procedures, with the complaints of a failure to make reasonable adjustments concerning the underlying processes themselves and the overlap between the different policies and procedures.
10. The claimant presented her claim form on 20 March 2023 following a period of early conciliation between 17 – 20 February 2023, so that, if taken individually, any act or omission prior to 18 November 2022 is brought outside the standard time limit for such a claim.

### **The hearing**

11. The hearing was conducted over four days in May and August 2024. It was agreed that this hearing would deal first with any question of liability moving on to a separate hearing if any questions in relation to remedy arose. Arrangements were made for a provisional case management hearing and subsequent provisional remedy hearing in case there was to be a need for the tribunal to move on to consider remedy matters.
12. Having heard closing submissions on 6 August 2024, we reserved our decision and met in chambers on 7 August and 9 October 2024 to produce this decision and reasons.

### **THE LAW**

13. This statement of the law is taken largely from Mr Macdonald's closing submissions, which do not seem to be in dispute as an account of the relevant law.

### **Discrimination arising from a disability**

14. The question of discrimination arising from a disability is addressed by s15 of the Equality Act 2010:

*“(1) A person (A) discriminates against a disabled person (B) if:*

*(a) A treats B unfavourably because of something arising in consequence of B’s disability, and*

*(b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.”*

15. No point arises in this case as to lack of knowledge of the disability under s15(2).

16. According to the EHRC Code of Practice (para 5.7) “unfavourable treatment” means that the person “*must have been put at a disadvantage*”.

17. As Mr Macdonald points out by reference to City of York Council v Grosset [2018] EWCA Civ 1105 “*It is not necessary for an employer to be aware that the “something” arises in consequence of the employee’s disability for liability to accrue under s 15.*” It is necessary for the “something” actually to arise from the disability but, as Mr Macdonald says, “*there need only be a loose connection between the disability and the unfavourable treatment*” (Hall v Chief Constable of West Yorkshire Police (UKEAT/0057/15)).

18. The position so far is summarised by the EHRC Code of Practice at para 5.10:

*“So long as the unfavourable treatment is because of something arising in consequence of the disability, it will be unlawful unless it can be objectively justified ...”*

19. On the question of justification, the respondent must show that the unfavourable treatment is or was “*a proportionate means of achieving a legitimate aim*”. It is for the respondent to show not just a legitimate aim but also that the unfavourable treatment was a proportionate means of achieving that aim.

20. As the EHRC Code of Practice says at para 4.31, a measure will be “*proportionate if it is an ‘appropriate and necessary’ means of achieving a legitimate aim. But ‘necessary’ does not mean that the provision, criterion or practice is the only possible way of achieving the legitimate aim; it is sufficient that the same aim could not be achieved by less discriminatory means.*”

### **Reasonable adjustments**

21. One of the ways in which the duty to make reasonable adjustments arises is set out in s20(3) of the Equality Act 2010, where the duty to make reasonable adjustments is described as:

*“a requirement, 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, to take such steps as it is reasonable to have to take to avoid the disadvantage.”*

22. The requirement for knowledge of the need to make reasonable adjustments is set out in section 20:

*“(1) A is not subject to a duty to make reasonable adjustments if A does not know, and could not reasonably be expected to know ...:*

*(b) ... that an interested disabled person has a disability and is likely to be placed at the [relevant] disadvantage.”*

23. Mr Macdonald placed considerable reliance on Bray v London Borough of Camden (UKEAT/1162/01), addressing questions of the treatment of disability-related absence in attendance procedures, noting the EAT’s view that:

*“The logical consequences of the argument that an employer should exclude from consideration the entire part of an employee’s sickness absence related to disability would be that an employee could be absent throughout the working year without the employer being in a position to take any action in relation to that absence. In our view, the tribunal was correct, as a matter of good sense, to take the point that if any such absences were to fall outside the sickness policy it would generate enormous ill-feeling and be a potential for unauthorised absenteeism.”*

### **Other matters**

24. Time limits are addressed by s123 of the Equality Act 2010:

*“(1) Subject to [ACAS early conciliation] proceedings ... 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.*

*...*

*(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.”*

25. Section 136 addresses the burden of proof:

*“(2) 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.*

*(3) But subsection (2) does not apply if A shows that A did not contravene the provision.”*

## OUR FINDINGS

### Introduction

26. At points in these reasons we can move directly from our findings on the facts to conclude whether there has or has not been disability discrimination. We will do so where we properly can.

27. The claimant was a police officer. As such she has the right to claim disability discrimination on essentially the same terms as an employee, although relying on slightly different sections of the Equality Act as the foundation of that right.

28. The claimant was originally employed by the respondent on a civilian basis, starting work as a police officer in 2008. The claimant left the service of the respondent on 31 July 2023 through ill-health retirement.

### Reasonable adjustments

29. Although expressed as five separate allegations of a failure to make reasonable adjustments the claimant’s claims in respect of reasonable adjustments share a common thread.

30. The claims of a failure to make reasonable adjustments rely on PCPs of applying the unsatisfactory performance and attendance policy, applying the misconduct process and applying them at the same time.

31. While the respondent has criticised this formulation of the PCPs, it seems to us that there is no doubt the respondent had and applied these PCPs to the

claimant. Perhaps they should be qualified by saying that the PCPs were only applied if relevant circumstances (unsatisfactory performance or attendance) and/or allegations of misconduct) arose, but such circumstances clearly did arise in the claimant's case. The PCPs were applied to the claimant, and in particular the PCP of (where circumstances arose of both unsatisfactory performance or attendance and allegations of misconduct) applying them both at the same time.

32. The claimant says in each case that this put her at a substantial disadvantage in comparison to someone who is not disabled: she says that substantial disadvantage was an exacerbation of her mental health conditions. Mr Snell puts it this way in his closing submissions:

*“The stress, the anxiety and the negative effect that all these processes combined (consecutively and concurrently) would have had on a fully-fit officer with no disabilities or pre-existing medical conditions would have been immense. The effect that it had on [the claimant] with her Mental Health medical conditions can scarcely be described. It was intolerable for her. She suffered a huge disadvantage in this respect compared to a non-disabled officer, and it was pointed out to the Respondent at various times , by both [the claimant] and her GP, that the processes were making her health conditions worse. The Respondent therefore was well aware of the substantial disadvantage she was being placed at, but rather than acknowledging this and taking action to alleviate it or avoid it, instead the R continued to turn the pressure dial up to 11.”*

33. The respondent defends this on a number of different bases. First that the application of the policy or policies did not in fact give rise to a substantial disadvantage, and second that if it did the respondent did not and cannot have been expected to have knowledge that the claimant was placed at a disadvantage.
34. In support of this, Mr Macdonald points to a lack of any evidence from the claimant that the application of the policies were causing her any particular medical difficulties, and indeed suggestions from the claimant at the time that her absences were not to do with her disabilities. Mr Snell says in his closing submissions that *“it was pointed out to the respondent ... that the process was making her health conditions worse”*. It is not clear what Mr Snell has in mind in saying this. There is a sequence of letters from the claimant's GP concerning adjustments dating from 21 July 2022 – 22 February 2023 none of which refer to the claimant being disadvantaged by the policies or which suggest the adjustments contended for in this claim. A GP letter dated 11 April 2023 speaks of difficulties caused by being referred to an 'unsatisfactory performance' meeting, which has *“understandably worsened both her anxiety and depression”*, but by this time the claimant has applied for ill-health

retirement and this appears to post-date any of the points in time at which it is said that reasonable adjustments should have been made.

35. Beyond that, assuming there was a substantial disadvantage of which the respondent either was or should have been aware, there is the question of what adjustments the respondent could or should have made. On the whole the adjustments put forward by Mr Snell as possibly removing the disadvantage relate to either not applying the policies at all or not progressing them. There are considerable difficulties in principle with this. First, if a police officer has problems with performance or attendance, and even more so if allegations of misconduct arise, there is a strong public imperative that those should be addressed and not simply ignored. Perhaps it is the case that adjustments can be made along the way to these processes to account for any disabilities, but that is far from saying (as the claimant seems to be arguing) that the policies should not be applied or progressed at all.
36. The respondent is also able to make some specific points in respect of the individual allegations. For instance, that for RA1, the suggested reasonable adjustment was actually made in that no unsatisfactory performance plan was imposed on the claimant at this stage and for RA4 that the SRP was a supportive not punitive matter.
37. In general on the reasonable adjustments claims:
  - a. The respondent had and applied the PCPs alleged.
  - b. The claimant has not demonstrated that the PCPs alleged placed her at a substantial disadvantage in relation to someone who is not disabled.
  - c. The respondent did not know and could not reasonably be expected to know that the claimant was placed at the disadvantage she claims.
  - d. The adjustments contended for do not amount to reasonable adjustments and even if the claimant was put at a substantial disadvantage and the respondent knew or should have known that there are no other reasonable adjustments that the respondent should have made.
38. The claimant's complaints of a failure to make reasonable adjustments are dismissed.

**Discrimination arising from a disability – legitimate aims**

39. At points during our discussion of discrimination arising from disability we will need to address whether the respondent's behaviour was justified as a proportionate means of achieving a legitimate aim.



40. The respondent has asserted (with some degree of overlap or repetition) nine legitimate aims, described by us as LA1-9 on the list of issues.
41. It has never been part of the claimant's case that these were not, in principle, legitimate aims, and we have no hesitation in accepting them as being potentially legitimate aims. They seem to operate under two broad categories – the need to ensure police officers operate with integrity, reliability and honesty, and the need to ensure the health of officers, both as an aim in its own right and in support of operational effectiveness. What, if any, legitimate aim was pursued in respect of any allegation of discrimination, and whether the respondent's actions were a proportionate means of achieving that aim will need to be considered for each allegation in which it arises, but the general principle that these are potentially legitimate aims is not in dispute.
42. Looking a little further, much of what will be discussed falls to be considered in the context of the considerable powers and responsibilities that police officers have and are therefore subject to.

#### **Discrimination arising from a disability – specific allegations**

43. We will move on to consider the claims of discrimination arising from a disability, and for this our consideration of the relevant facts starts in 2016.

#### **AD1 & AD2 - MRAG**

44. The claimant's initial complaints concern "MRAG" processes in 2016 and 2017. "MRAG" was the "Misuse Risk Assessment Group".
45. The respondent's "Alcohol, Drugs and Substance Misuse and Testing Procedures" at para 1.4 say that "*A Misuse Risk Assessment Group (MRAG) will be set up in all cases of self-declaration relating to an alcohol, drug or substance misuse problem.*" and at para 1.6: "*A risk assessment either dynamically or part of the MRAG must be carried out in all cases in order to minimise the risk to the health and safety of our staff and the public.*"
46. At para 5.2 of the policy, the following appears:

*"The purpose of the MRAG is to be able to discuss openly with the individual any issues, the support that they have both internally and externally and that they are engaging in this support. It is important that the police officer/member of staff has been seen by Occupational Health before the MRAG is arranged."*
47. There were documented MRAG meetings for the claimant in October 2016 and February 2017.
48. The claimant's allegations in respect of the MRAG process has never been clear. In the list of issues it is said that two relevant matters occurred because

of something arising from the claimant's disability (presumably the sporadic consumption of alcohol). These are issues AD1 and AD2

*"On 20/10/16 – begin a ... MRAG ... as C had declared an issue with alcohol and wanted help, and*

*Hold a review meeting on 7/2/17 but not offer any help/support by this process."*

49. In her witness statement the claimant says:

*"My understanding of the MRAG was that it was meant to be something supportive. However after the initial meeting I never heard anything else at all about it ..."*

50. The claimant criticises the action points arising from the MRAG.

51. In his closing submissions on behalf of the claimant Mr Snell speaks of the MRAG as being one of a number of processes the claimant was subject to. He says that "[the claimant] *received no support from the MRAG, and that it did not take into account her disability*". He says "*The very fact that an MRAG was instigated shows ... that the Respondent was focussing on the symptom of alcohol-usage of [the claimant's] medical condition rather than her CPTSD/PTSD/anxiety/depression*".

52. In his submissions for the respondent, Mr Macdonald suggests that Mr Snell accepted during the hearing that AD1 should be "crossed out".

53. AD1 reads: "*On 20/10/16 – begin a Misuse Risk Assessment Group ("MRAG"), which is a process designed to help and support officers who have a self declared problem with alcohol or drugs, as C had declared an issue with alcohol and wanted help.*" The respondent accepts that this occurred, but we are at something of a loss based on the claimant's evidence as to how beginning a MRAG could properly be considered, if a matter arising from her disability, as unfavourable treatment. On the whole the claimant's position on this seems to be better expressed in AD2: "*Hold a review meeting on 7/2/17 but not offer any help/support by this process*". In other words, the problem is not the MRAG itself (which is the only matter complained of in AD1) but that having been commissioned the MRAG was ineffective and did not offer any help or support to the claimant.

54. It is, of course, perfectly possible for an omission – a failure to do something – to be unfavourable treatment. Unfavourable treatment may be by way of inaction rather than action, but we find it impossible to follow this argument through to the conclusions the claimant seeks to draw. It is at least arguable that the commissioning of the MRAG in the first place was related to the claimant's sporadic misuse of alcohol and that that arose from her disability, but it is very difficult, and we find it in this case impossible, to project from that

that any failure to offer support before or after the reviewing meeting was because of something arising in consequence of the claimant's disability. To do so we would have to find that the respondent (i) commissioned an MRAG because of the claimant's sporadic consumption of alcohol but (ii) at the same time and for the same reason failed to offer any support under the MRAG. That would be an odd result, and certainly not one we find on these facts.

55. But there are even further difficulties with the claimant's position in respect of the MRAG. These events occurred in 2016 and 2017. They were at least six years before she submitted her claim, and four years before the next matters she complains of in 2021. In those circumstances we do not see how we could properly regard them as being a continuing act or extend time in respect of them.
56. Claims AD1 and AD2 are dismissed.

### **The first misconduct proceedings – March 2021 - the neighbour incident**

57. The claimant was subject to a misconduct meeting on 10 March 2021 in respect of an incident occurring on 4 May 2020 involving a neighbour. The conclusion of the misconduct meeting was:

*“You have breached the standards of professional behaviour in respect of Discreditable Conduct because:*

- a) You have a self-disclosed issue with alcohol which dates back to 2014 which the Force have been supporting you with and despite being advised of the consequences of your off duty behaviour involving alcohol, you were intoxicated and entered the home of neighbours who repeatedly asked you to leave due to your behaviour;*
- b) Your intoxicated behaviour on 4 May 2020 towards your neighbours in their home resulted in them calling the Police which brings discredit on the Police service as you are a serving officer;*
- c) Your intoxicated behaviour when involving members of the public has a serious impact on public confidence in the Police despite being off duty;*
- d) At an MRAG meeting convened on 20 October 2016 to discuss your behaviour and alcohol problems, attended by you, Federation and others, it was made clear to you the potential for misconduct proceedings if your drinking continued;*
- e) At an MRAG Review meeting on 7 February 2017, you were advised that if any incidents occurred out of work that involved alcohol and the police were called, this would instigate a PSD investigation.”*

58. This resulted in a written warning for the claimant. No issue of discrimination is raised in respect of this.

### **AD3 - The second misconduct proceedings – May 2021**

#### *The incident*

59. On 29 May 2021 the claimant had been drinking in a local pub. What occurred later that day is a matter of dispute. The claimant says that she went to pet a horse tied up outside the pub and was assaulted by someone while doing so. It was the claimant's position that she had been the victim of a criminal assault. An alternative version of events is that the claimant was annoying the horse, which knocked her to the floor, following which she *"got up and pushed one of the males who was with the horse before storming off from the pub"*.
60. This results in AD3: *"on 29 [May] 2021 – begin a misconduct investigation and undertake an inadequate investigation, leading to a 'not proven' finding. Obligate C to go through a "reflective practice" as a result of this."*
61. The respondent accepts that this incident was subject to a misconduct investigation, and say: *"Insofar as C was required to go through reflective practice after this incident this was a proportionate means of achieving the legitimate aim of holding officers to high standards of conduct and maintaining public trust in R and its officers, particularly given the concerns around C's alcohol use and related behaviours."*
62. The *"not proven"* decision arose at a misconduct meeting on 26 October 2021. In principle it is difficult to see how a *"not proven"* decision could amount to a detriment or less favourable treatment of the claimant. If there is a detriment or less favourable treatment of the claimant in respect of this it must be the *"inadequate investigation"* and the requirement to undertake *"reflective practice"*.

#### *AD3 - Inadequate investigation?*

63. In his closing submissions Mr Snell describes the *"inadequate investigation"* in this way: *"A number of on-duty officers and PCSO's attended the scene, and also located [the claimant] who was making her way home on foot from the town. No further account or statement was obtained from the [member of the public] who called in the assault, despite her remaining at the scene and being spoken to by attending officers. But the manager of the pub which the incident happened outside of, volunteered an account to officers that in fact the horse itself had knocked [the claimant] to the ground, and that no assault had happened. The officers accepted this account immediately without question or verification, and straightaway took a statement from her to that effect ... She admitted in her statement that she knew persons in her pub who were connected to the horse left outside. Absolutely no attempt was made by the police to secure other evidence at the scene, eg CCTV, nor to speak to*

*any persons in the pub, nor to try and locate other witnesses, nor to try and trace the offenders or the horse & cart as described by the original caller.”*

64. He continues:

*“A number of different officers were dispatched and attended, though only two went to the scene, the others all attended to [the claimant] and her home address, but none of them conducted any investigative action towards trying to trace the suspect (or suspects) and trying to solve the crime; the only thing that was done was the taking of the negative statement from the pub staff member. There is only one credible explanation for this, and [the claimant] categorically believes this to be the case, and that is that as soon as officers discovered that she, [the claimant], was the victim, and that she had been drinking, that any desire to investigate this criminal assault vanished, and the sole intent then became to take action against [the claimant] via the R’s PSD.”*

65. The question for us is whether there was an inadequate investigation and if so, whether the reason (or part of the reason) for this was the claimant’s sporadic consumption of alcohol.

66. Mr Macdonald’s response to this is that Mr Snell goes further than the claimant did in describing an inadequate investigation, with the claimant limiting her evidence to saying simply that *“they didn’t investigate my allegations”* when clearly there was at least some sort of investigation. Mr Macdonald reminds us that when that point was put to the claimant she said that a witness had been approached too late, by which time they (the witness) were unwilling to give a statement. Mr Macdonald says that in the subsequent investigation the claimant accepted at least some misbehaviour on her part that day, and that this is not about *“sporadic consumption of alcohol”* but a specific problem that occurred at a time when she accepted she had been drinking.

67. We have to consider whether there was an inadequate investigation for a reason arising from the claimant’s disability – in this case her sporadic consumption of alcohol. Having heard the evidence in this case we do not consider that this occurred. No doubt criticisms could be made of any investigation, but in his submissions Mr Snell identifies that the manager of the pub was interviewed and gave an account of matters. We do not accept the suggestion that this is an inadequate investigation that can only be explained as a matter of discrimination arising from disability.

68. In any event, as put by the claimant any alleged failure in the investigation was the responsibility of local officers and occurred at the time of the incident or shortly afterwards in May 2021. We do not see that there can be any proper suggestion that this is part of a continuing act. As an allegation it is a

long way out of time and we have been given no basis on which time limits should be extended.

*AD3 - Reflective practice*

69. It is correct to say that the outcome of these misconduct proceedings was a process of reflective practice. This occurred in a meeting on 30 November 2021. The “*details of the practice which requires improvement*” includes:

*“It is accepted that [the claimant] has a history of alcohol misuse and that whilst the discreditable conduct allegation had merit, based on the facts available it is unproven in this instance. As a result of investigation, it was noted that [the claimant] placed herself at risk, both personally and professionally by being intoxicated and that should she continue to misuse alcohol in such a manner then it is only a question of time before she suffers significantly from this course of conduct.*

*As a result of the investigation it was requested that [the claimant] carefully consider her use of alcohol and should seek and be provided with support to combat her alcohol issues.”*

70. The notes of the meeting include that “[the claimant’s] *aim is sobriety; indefinitely and she has no intention to return to alcohol consumption*”. The outcome is recorded as:

*“[The claimant] continues to be supported by both her first and second line manager with a phased return to work. This has included a reduction in her working hours and a varied shift pattern to enable her regular attendance to both her Zoom calls and the gym.*

*[The claimant] has been provided with a copy of the Alcohol and Substance Misuse Policy and an open door to continue providing open and honest updates on her progress ...”*

71. On this point, Mr Snell says “[the claimant] *vehemently disagreed with the RP process, but there is no mechanism ... to enable her to appeal or reject it*”.

72. It is difficult to know what to make of this point. Reflective practice was required. The only matter arising from disability that could be relevant to this is “*sporadic consumption of alcohol*”. Mr Macdonald says that “*sporadic consumption of alcohol*” was not the reason for the reflective practice. The reason was alcohol misuse. Mr Macdonald goes on to say that this was not unfavourable treatment and would be justified as a proportionate means of assisting the claimant’s health and wellbeing and enabling her to perform her duties (see LA1 & LA7, but other legitimate aims also touch on similar considerations). We accept that these were legitimate aims pursued by the respondent in acting the way it did.

73. We accept the submission that the outcome of reflective practice was not unfavourable treatment, and that if it was, it was justified. The claimant's consumption of alcohol appeared to give rise to problems that affected her police duties. The notes of the meeting appear to suggest that the claimant recognised a problem that she was attempting to address. The purpose of the meeting was to be supportive and encourage her in those efforts. That was appropriate and necessary in support of legitimate aims LA1 and LA7. This was not unlawful discrimination arising from disability.
74. It will be apparent from the above that in discussing these incidents we are not adopting a strictly chronological approach to matters. The paragraphs above discuss the second misconduct proceedings from the alleged misconduct in May 2021 through to the reflective practice meeting in November 2021. We will now move on to the third misconduct proceedings, which relate to an incident occurring on 4 August 2021 and so overlap in time much of the second misconduct proceedings (as previously discussed on the question of reasonable adjustments).

#### **AD4-6 - The third misconduct proceedings – August 2021**

##### *The incident*

75. It had been agreed that the claimant could work from home on 4 August 2021. At the time she had received a letter about some medical difficulties, and was concerned about that.
76. The claimant spoke to her sergeant in the morning. She accepts that she had drunk wine before doing so. She says that it was her intention to call in sick but "*I was in such turmoil ... that I don't think I even managed to say that I wanted to report as sick*". Her sergeant reported to a senior officer that "*the claimant was slurring her words and gave me the impression that she was intoxicated*". The officer authorised the sergeant and another officer to "*conduct a welfare check at the Claimant's home address and assess her fitness for duty ... Suspecting that the Claimant was intoxicated so early in the morning whilst on duty, required immediate action.*"
77. The claimant says:
- "Instead he was just simply intent on coming around to my address and trying to get evidence about me with alcohol and reporting me to the professional standards department for drinking. [My sergeant] suddenly turned up at my home address after our phone call, with another supervisor colleague (who was in uniform), with Body Worn Video on and a breathalyser device. It was immediately clear that my welfare was not their main concern at all; they just wanted to collect evidence against me. I really thought at the time they were going to arrest me, but instead they just reported me straight to the Professional Standards Department for drinking whilst on duty."*

78. The senior officer who authorised the visit says that she was told by those who had attended the claimant's home that "*in their opinion the Claimant was drunk, having admitted to consuming a bottle of wine*" and "*As a result of this event, a referral was made to our Professional Standards Department (PSD) to assess the severity of the Claimant's alleged conduct.*"
79. The first matter of alleged disability discrimination arising from this is AD4: "*begin a misconduct investigation ... which overlapped with the previous misconduct incident*". We think this comprises two distinct allegations of discrimination: beginning the investigation and having it overlap the previous incident (presumably meaning overlapping the investigation into the previous misconduct incident).

*AD4 – Beginning the investigation*

80. It is accepted by the respondent that a misconduct investigation into this was started (on 12 August 2021) and that this overlapped with the previous misconduct incident.
81. The first point made by Mr Snell is that it was discrimination arising from disability to have a misconduct investigation in the first place. The misconduct (if that is what it was) arose from the claimant's sporadic consumption of alcohol. Mr Snell says that disciplinary action is never compulsory. There is always an element of discretion, and that senior officers could have dealt with this simply as a welfare matter.
82. Mr Macdonald pointed out in his reply that the original investigation was to address two matters: first that the claimant was drinking on duty and second that she had lied to her line manager about that. He says that neither of those were something arising from her disability. Sporadic consumption of alcohol is not the same as drinking on duty, and certainly (so far as Mr Macdonald is concerned) has nothing to do with lying about whether you have been drinking.
83. Mr Macdonald also suggests that this was not unfavourable treatment in that the operation of some kind of procedure was inevitable in these circumstances, and this was a proportionate means of achieving the legitimate aim of holding officers to a high standard of conduct etc. (LA2, LA5, LA7 and LA9).
84. There are two aspects to this, reflecting the two different allegations of misconduct that arise.
85. First, we accept Mr Macdonald's position that sporadic consumption of alcohol is not the same thing as drinking on duty. Drinking on duty is not a matter that arises from the claimant's disability. The position is even clearer in respect of lying about drinking. It has never been suggested that lying about this was a matter arising from the claimant's disability.



86. Beyond that, we consider that carrying out an investigation in these situations was justified as a proportionate means of meeting legitimate aims. We accept that the legitimate aims claimed by the respondent were aims that they were pursuing in carrying out that investigation. Mr Snell's preferred approach of addressing this as a welfare issue would not have met the requirement of holding officers to high standards of conduct and maintaining public trust (LA2) or the protection of the public (LA5). We do not see that the respondent had any real option other than to investigate these two points as a matter of potential misconduct.

87. AD3 does not amount to disability discrimination.

*AD4 - Overlap in processes*

88. Given that, on our findings, it was necessary and a proportionate means of meeting legitimate aims for the respondent to investigate these matters we do not see that there is any basis on which the investigation should have been delayed. Any investigation ought to take place on the potential misconduct arising, in order to meet the identified legitimate aims.

89. AD4 does not amount to disability discrimination

*The investigation etc. process*

90. The investigation into these misconduct allegations took over a year to get to a misconduct hearing, from August 2021 to November 2022. No point of discrimination arises in relation to this delay. In this period the second misconduct proceedings concluded (as set out above), and steps were taken under the UAPP (some of which are the subject of claims of disability discrimination in their own right). As part of the investigation, in spring and summer 2022, both the respondent and the claimant commissioned reports from consultant psychiatrists.

*AD5 – finding one aspect of the misconduct investigation ... proven*

91. On 2 November 2022 the claimant was notified of misconduct proceedings to address the following allegation: "you ... lied to your line manager about your consumption of alcohol, whilst under a written warning for alcohol-related conduct."

92. An important point is that by this time the allegation against the claimant was not that she had drunk alcohol while on duty, but that she had lied about doing so. This lie did not arise from the claimant's disability. In those circumstances the finding and final written warning were not things that arose in consequence of the claimant's disability and AD5 is not unlawful disability discrimination.

*AD6 – Rejecting the claimant's appeal*

93. AD6 is “on 20/2/23 – rejecting C’s appeal”. This does not seem to us to add anything that has not already been addressed in AD5 and is not unlawful disability discrimination for the same reasons we have given in respect of AD5.

### **UAP and UPP generally**

94. AD7-AD10 echo some of the points made in respect of reasonable adjustments for the operation of the UAP and UPP.

#### *AD7 – having C on the UAP and advancing her through it*

95. The first of these is AD7: “*continuously desire to have C on the UAP and to advance her through it without regard to her disability*”.
96. As Mr Macdonald points out, the respondent has an easy answer to the first part of this. We accept as a general proposition that the respondent had no desire whatsoever to have the claimant or any other officer on the UAP. As Mr Macdonald puts it, rather than wanting the claimant to be on the UAP, the respondent “*wanted someone on the job, and not under any attendance management process*”.
97. Perhaps this is more about the second part of the allegation: to advance her through it without regard to her disability.
98. Thus the analysis contended for by the claimant would be that for a reason arising from the claimant’s disability the respondent advanced her through the UAP without regard to her disability. This seems to be something that can only be looked at in the context of the specific allegations that follow.

#### *AD8 – commencing a UPP on 20 June 2022*

99. Allegation AD8 is “*commencing a UPP on 20/6/22 while C was under the misconduct and UAP processes*”. The respondent’s answer to that is “*C was not commenced on an unsatisfactory performance policy process on 20 June 2022 – whilst R drew up an action plan, C refused to engage with this or agree to it. It was therefore never implemented.*” In his closing submissions Mr Macdonald said that if it had happened it was reasonable and justified by reference to LA4 and LA7. It appears to be accepted by the respondent that if the UPP was imposed it was imposed for a reason relating to the claimant’s disability.
100. Mr Snell explores the point in more detail in his submissions:

*“The R asserts that because [the claimant] did not agree to the Plan and did not sign it, it could not be implemented. This is simply not the case; whilst she did not agree with the Plan nor sign it, it was very much put in place ... The Plan was implemented under the UP/AP, so it is not possible for the officer to thwart the imposition of the Plan simply*

*by not agreeing to it. If this were the case, then [the claimant] could have avoided the imposition of the Unsatisfactory Attendance Plans simply by not signing them.*

*The imposition of this Plan, which [the claimant] considered completely disproportionate, unnecessary and unfair, as well as the pressure of the upcoming Gross Misconduct Hearing and the two associated psychiatric assessments exacerbated her PTSD, stress and anxiety to such an extent that she reported sick on the 1st July 2022 ...”*

101. On the question of whether the UPP was “imposed” Mr Macdonald points to the fact that the UPP was not signed by the claimant and a letter from her shortly before the alleged date of imposition saying “*I do not agree to any performance action plan being implemented ...*”. Mr Snell says that the relevant sergeant agreed that the UPP was in place. He refers to an email from 30 August 2022 to the claimant which starts “*Just thought I’d email you to confirm our discussion about what’s happening with the Informal Action Plan that was started at the end of June.*” This is a reference to the UPP of 20 June 2022.
102. The question posed by AD8 is not so much whether the UPP was imposed, but whether it was commenced. It is clear to us from the email from her sergeant that the respondent regarded the claimant as subject to the informal action plan even though she had not explicitly consented to it, and that is sufficient to amount to “commencing” the process. The factual basis of AD8 is made out. As previously mentioned, it does not seem to be in dispute that this was commenced for reasons related to the claimant’s disability, nor that it was unfavourable treatment. Accordingly we have to move on to consider whether it was justified – that is, whether it was a proportionate means of meeting a legitimate aim.
103. The respondent relies on legitimate aims LA4 and LA7. We have no hesitation in finding that these were legitimate aims and were pursued by the respondent in the imposition of the informal action plan. The question that remains is whether the imposition of the plan was a proportionate means of meeting a legitimate aim – that is, was it an appropriate and necessary means of meeting a legitimate aim.
104. There are two particular points to note at this stage. The first is that as its name suggests, the “informal action plan” is not particularly onerous. It is described as being an action plan under “*unsatisfactory performance – informal stage*”. It is thus the very minimum level of action to be taken under the UPP. The section is that in general the claimant’s position on the UPP and UAPs has been that even minimal action (such as this) taken under the plans has worsened her condition and made it less likely that she would return to satisfactory performance. The essence of her position is that she will recover to proper performance in time and that the respondent should back off and

allow her to recover. There may be some circumstances in which that is appropriate, but it does seem to leave the respondent in a difficult position. What if the claimant's performance does not improve over time? At some point they were bound to have to intervene.

105. Bearing that in mind, we have concluded the respondent has justified commencing the UPP on 20 June 2022 (which means the "informal action plan") and having the claimant on the UAP and advancing her through it. These were limited but necessary steps in pursuance of its legitimate aims, and do not amount to unlawful disability discrimination.

*AD9 – adding a "supportive recovery plan"*

106. It is accepted by the respondent that this happened, and it seems clear that it was for a reason relating to the claimant's disability.
107. It is not entirely clear what the claimant's complaint is regarding this. We have previously mentioned the essentially supportive role of a SRP, and as Mr Macdonald points out, in her witness statement the claimant says "*I think could have been a lot more helpful if it were implemented at a much earlier stage*". He also points out the claimant accepted in cross-examination that the SRP was a supportive measure.
108. In his closing submissions Mr Snell says that the SRP was "*a totally unnecessary, disproportionate and stressful additional bureaucratic process imposed on [the claimant].*"
109. Mr Snell's submission is not supported by the evidence in this case, and we find that the SRP was not unfavourable treatment of the claimant, it was, as she accepted, a supportive measure. The addition of the SRP is not unlawful disability discrimination.

*AD10 – the wellness action plan*

110. The respondent accepts that it recommended that the claimant complete a Wellness Action Plan (or WAP) during the stage 2 UAP process. That must have been for a reason related to the claimant's disability.
111. This is how Mr Snell addresses the point in his closing submissions:

*"The recommendation to complete a WAP showed a complete lack of understanding of [the claimant's] medical diagnoses, and also disregarded the submissions that had been made about additional plans being detrimental to her health. A WAP in itself, can be a good idea and can assist personnel who are at an early stage of disclosing, or dealing with, mental health issues. However in [the claimant's] case, the R had known about her conditions for several years, and were in possession not only of a great deal of confidential medical information*

*about her, and her background, and medical treatments but also had received earlier that year, two extremely thorough reports on her from [two] Consultant Psychiatrists ... There was nothing to be gained for either the R or [the claimant] by completing a low-level WAP. [The claimant] believes that recommending the WAP was just a way that the Line Managers sought to divest themselves of some of the responsibility of imposing the Attendance Management Plan back onto the Claimant herself."*

112. So as Mr Snell sees it, a WAP can be a helpful measure in some cases, but was not in the claimant's case because the respondent was already very well informed about the claimant's disability, and the WAP was a means of *"imposing the Attendance Management Plan back onto the Claimant herself"*.
113. We were provided in the hearing bundle with information about a Wellness Action Plan prepared by the charity Mind. The introduction says *"The Wellness Action Plan is inspired by Mary Ellen Copeland's Wellness Recovery Action Plan ... an evidence-based system used worldwide by people to manage their mental health."*
114. We accept Mr Macdonald's submission that simply recommending that someone completes such a plan cannot properly be regarded as unfavourable treatment. A WAP is designed to be a supportive measure. There is nothing to support Mr Snell's view that this was somehow an abrogation of managerial responsibility. The simple recommendation of this by the respondent was not unfavourable treatment and does not amount to unlawful discrimination.

*AD11 – various managers*

115. AD11 is *"involving various managers in the processes applied"*. There is no doubt (and it is accepted by the respondent) that various managers were involved in the processes.
116. As Mr Macdonald points out in his closing submissions, there is a fundamental problem with this allegation. As he says, *"C, even on her own evidence, does not suggest that "various managers" were involved because of any of the alleged "somethings arising"."*
117. This is addressed by Mr Snell at paras 56-62 of his closing submissions. Two points seem to be made: because of the claimant's health she was transferred around sections and had different line managers as a result, and that general police practice may mean someone has a number of line managers, but this was particularly difficult for the claimant given her disability.
118. The claimant's frequent redeployment may have had something to do with her disability and the restricted duties that followed, but if there is to be such redeployment then it seems to us bound to involve having different line managers. The problem here (if there is one) is the redeployment. Different

line managers flow from the redeployments. Of course, the redeployments were to some extent at least adjustments made to accommodate the claimant's disability. The problem (if any) that arose from her disability was the redeployments, not the number of different line managers.

119. As for the second of the two points, while having a number of different line managers may have been difficult for her, it is clear that this was not a matter arising from her disability. What the claimant seems to be arguing for here is an adjustment of not changing her line manager, whether on redeployment or otherwise. That was not argued and seems to us to be a point that was unlikely to succeed if it had been argued. "*Involving various managers in the processes applied*" was not an act of unlawful disability discrimination.

*AD12 - C's application for ill-health retirement*

120. AD12 is "C's application for ill-health retirement", but as the respondent says "*C's application for ill-health retirement is/was her own decision and cannot be said to be unfavourable treatment by R*". This was not unlawful disability discrimination.

*AD13 – Referring C to a Stage 3 UAP meeting*

121. The respondent accepts that the claimant was referred to a stage 3 UAP meeting.
122. This continues the theme of previous arguments made on the claimant's behalf that progression through the UAP negatively affected her health, with the additional point that by this time the claimant had made an application for ill-health retirement which was under consideration.
123. Mr Macdonald relies on legitimate aims LA3, LA6, LA7 and LA8.
124. For essentially the same reasons outlined in our discussion of reasonable adjustments we find the respondent referring the claimant to a stage 3 UAP meeting was justified as being appropriate and necessary to meeting these legitimate aims, and the fact that she had applied for (but not been accepted for) ill-health retirement does not affect this. The respondent had to operate some sort of procedure for officers who were unable to carry out their duties, and referral to stage 3 UAP was an appropriate action in support of its legitimate aims.

**Time points (not previously addressed)**

125. Mr Macdonald says (and it does not appear to be disputed by Mr Snell) that any act or omission prior to 18 November 2022 would be out of time, if considered as a single act rather than a continuing act, and that the claimant has not put forward any reason why time should be extended on a "just and equitable" basis. Given our findings that there has been no discrimination it is

not necessary to go further than that other than to acknowledge in the absence of any continuing act anything occurring before 18 November 2022 would be outside the tribunal's jurisdiction and we have been given nothing by the claimant from which we could conclude that we should extend time on a just and equitable basis.

## CONCLUSION

126. The claimant's claims are dismissed.
127. The provisional case management hearing listed for 18 November 2024 and the provisional remedy hearing listed for 23 January 2025 are vacated and will not take place.

Employment Judge Anstis  
Date: 21 October 2024

RESERVED JUDGMENT & REASONS SENT TO THE PARTIES ON  
23 October 2024  
FOR EMPLOYMENT TRIBUNALS

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<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>

APPENDIX – LIST OF ISSUES

**Jurisdiction**

4. C presented her ET1 on 20 March 2023. ACAS Early Conciliation took place on 17 – 20 February 2023, although R did not receive notification of the same by C or ACAS.
  - a. Did C bring her complaints within 3 months of the date of the act complained of (with a 3-day extension for ACAS conciliation and subject to s.140B(4) of the EQA)?
  - b. Was there discriminatory conduct extending over a period? If so, did C bring her complaints within 3 months of the end of that period (subject to EC extension)?
  - c. If not, is it just and equitable to extend time for C to bring her complaints?

**Disability**

5. It is accepted that C had a disability within the meaning of s.6 of the EQA as a result of her complex PTSD, PTSD, anxiety and/or depression at all material times.
6. R knew about the above health conditions since at least October 2016.

**Failure to make reasonable adjustments**

8. Did R have the following provision, criterion or practices (“PCPs”):
  - a. Applying the Unsatisfactory Performance and Attendance Policy (“UPAP”) (“PCP1”);
  - b. Applying the Misconduct Process (“PCP2”); and
  - c. Applying the above concurrently (“PCP3”).
9. If so, do they amount to PCPs in law for the purposes of section 20(3) of the EQA? R avers they are too vague and generalised to be capable of amounting to PCPs in law.
10. If any of the PCPs in para 8(a) amount to PCPs in law:
  - a. Did R apply it/them to C?
    - i. C avers that the UAP was applied to C from 30 November 2021. It is not clear when this process ended.
    - ii. C avers the UPP was applied to her from 20 June 2022.
    - iii. C avers that the misconduct process was applied to her from 29 June 2021 until her appeal against the final written warning was rejected on 20/2/23.
  - b. Did it/they put C at a substantial disadvantage in relation to her employment in comparison with non-disabled people? What was the substantial disadvantage?
  - c. If so, what steps was it reasonable for R to take to avoid the disadvantage? R avers that none of the seemingly suggested reasonable adjustments were reasonable.

*Please see the table below addressing (i) PCPs (ii) substantial disadvantage (iii) suggested adjustment and (iv) R’s case on reasonableness of adjustment.*



	PCP asserted by C: - Applying the Unsatisfactory Performance Policy & the Unsatisfactory Attendance Policy - Applying the misconduct procedure - Applying the above concurrently	Substantial disadvantage C says she suffered from the imposition of the PCP compared to a non- disabled person	Reasonable adjustment suggested by C (at page 2 of C's Grounds and Detail of Claim)	If PCP and substantial disadvantage accepted by Tribunal, why R says the suggested adjustment was not reasonable to make.
RA1	UPAP Plus concurrent to Misconduct Proceedings	Exacerbation of conditions C suffers from, necessitating an increase in medication prescribed by GP.	<i>Non imposition of the unsatisfactory performance plan</i>	It was appropriate of R to encourage C to improve her performance in circumstances where it had fallen below standard. In any event, it is denied that an unsatisfactory performance plan was imposed on C – whilst an action plan was drawn up on 20 June 2022, C refused to sign or adhere to it.
RA2	UPAP Plus concurrent to Misconduct Proceedings	As above	<i>Non-progression of the unsatisfactory attendance plan from stage 1 to 2</i>	It was appropriate for R to advance C to stage 2 in line with its policies, with a view to securing reasonable levels of attendance by C.
RA3	UPAP Plus concurrent to Misconduct Proceedings	As above	<i>Discounting some or all of C's periods of sickness related to her disability</i>	As above, it was appropriate for R to advance C to stage 2 in line with its policies, with a view to securing reasonable levels of attendance by C. There was always scope for discounting levels of absence at stage 3 of the policy if required.
RA4	UPAP Plus concurrent to Misconduct Proceedings	As above	<i>Not imposing a SRP at stage 2</i>	The supportive recovery plan was to support C.
RA5	UPAP Plus concurrent to Misconduct Proceedings	As above	<i>Not asking the Claimant to complete a Wellness Action Plan</i>	C never filled this out and so this was never applied to C. Regardless, it was reasonable to ask C to fill this out.
RA6	Misconduct Proceedings Plus concurrent to UPAP	Increased/exacerbated stress	<i>Not to pursue misconduct proceedings stemming from 4 August 2021</i>	Given C had clearly lied to her immediate line manager, it was appropriate for this to be fully investigated given the several warnings to C in the past about the consequences of her alcohol use.

**Something arising from disability**

11. What is the ‘something’ arising from C’s disability that C claims caused R to treat her unfavourably in respect of each act below? C says the something arising from her disability was:
- i. her absences from work;
  - ii. her inability to deal with certain types of work in her role & her (alleged) inability to perform to the standard the Respondent required of her; and
  - iii. her sporadic consumption of alcohol.
12. Did R do the following acts:

	<b>C</b>	<b>R</b>
AD1	On 20/10/16 – begin a Misuse Risk Assessment Group (“MRAG”), which is a process designed to help and support officers who have a self declared problem with alcohol or drugs, as C had declared an issue with alcohol and wanted help.	It is admitted a MRAG process was initiated in 2016.
AD2	Hold a review meeting on 7/2/17 but not offer any help/support by this process.	It is denied and R does not understand C’s allegation that R did not provide help/support.
AD3	On 29/6/21 – begin a misconduct investigation and undertake an inadequate investigation, leading to a ‘Not Proven’ finding.  Obligate C to go through a ‘Reflective Practice’ as a result of this.	It is admitted C was investigated as a result of a misconduct issue on 29/6/21.  Insofar as C was required to go through reflective practice after this incident this was a proportionate means of achieving the legitimate aim of holding officers to high standards of conduct and maintaining public trust in R and its officers, particularly given the concerns around C’s alcohol use and related behaviours.
AD4	On 4/8/21 – begin a misconduct investigation from an incident on this date, which overlapped with the previous misconduct incident.	It is admitted that C was investigated for misconduct in relation to the incident on 4 August 2021.
AD5	On 30/11/22 – finding one aspect of the misconduct investigation relating to the incident on 4/8/21 proven and imposing a Final Written Warning (“FWW”) for Honesty and Integrity matters.	It is admitted a FWW was imposed.
AD6	On 20/2/23 – rejecting C’s appeal.	This is admitted.
AD7	Continuously desire to have C on the UAP and to advance her through it without regard to her disability.	It is admitted that C was managed under the Unsatisfactory Attendance policy but denied that this was done in a mechanistic way without regard to her disability.
AD8	Commencing a UPP on 20/6/22 while C was under the misconduct and UAP	C was not commenced on an unsatisfactory performance policy process on 20 June 2022 –

	processes	whilst R drew up an action plan, C refused to engage with this or agree to it. It was therefore never implemented.
AD9	Adding a supportive recovery plan (“SRP”) onto the Stage 2 UAP Action Plan	This is admitted.
AD10	Recommending that C complete a Wellness Action Plan during the Stage 2 UAP Process	This is admitted.
AD11	Involving various managers in the processes applied.	It is admitted that there were several line managers and Respondent personnel who were made aware of C’s medical and personal information. On many occasions, this was disclosed by C herself: it cannot therefore be said to be unfavourable treatment by R.
AD12	C’s application for ill-health retirement.	C’s application for ill-health retirement is/was her own decision and cannot be said to be unfavourable treatment by R.
AD13	Referring C to a Stage 3 UAP meeting.	This is admitted.

13. To the extent these acts are (i) admitted or (ii) found to have happened by the Tribunal, were these acts unfavourable treatment?
14. If so, were they done because of something arising from C’s disability? If so, what was that something in respect of each act?
15. If so, can R show that the treatment is a proportionate means of achieving a legitimate aim? R avers that to the extent any of the acts above are found to have (i) happened (ii) been unfavourable treatment, and been done (iii) because of something arising from C’s disability, they are a proportionate means of achieving a legitimate aim for the reasons set out in para 48 of its Grounds of Resistance, being:
  - i. assisting C’s health and wellbeing; [LA1]
  - ii. holding officers to high standards of conduct and maintaining public trust in R and its officers; [LA2]
  - iii. securing reasonable levels of attendance at work by staff and C; [LA3]
  - iv. encouraging high standards of performance at work; [LA4]
  - v. the protection of the public; [LA5]
  - vi. the effective and efficient use of public funds to deliver effective policing on a 24/7 basis; [LA6]
  - vii. for officers to perform their duties; [LA7]
  - viii. to support officers to achieve satisfactory performance and attendance levels; [LA8]
  - ix. ensuring personnel had an appropriate level of information about C to enable them to manage her/make decisions about her. [LA9]