Case No: H51YJ096

IN THE STOKE ON TRENT COUNTY COURT

Stoke on Trent Combined Court Centre
Bethesda Street
Hanley
Stoke on Trent ST1 3BP

Date: 09/05/2025

THE COUNTY COURT

Before :

HIS HONOUR JUDGE ANDREW SMITH KC

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Between :

Sharon Frederick	**Claimant**
- and -	
The Chief Constable of West Midlands Police	**Defendant**

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- -

Mr Simon Mallett (instructed by **Simpsons Solicitors**) for the **Claimant**
Mr James Marwick (instructed by **Plexus Law**) for the **Defendant**

Hearing dates: 6 and 7 March 2025

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Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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His Honour Judge Andrew Smith KC:

1. The Claimant, Sharon Frederick, was employed by the Defendant, the Chief Constable of West Midlands Police as a business analyst. Ms Frederick claims damages on the basis that she sustained personal injury as a consequence of the Defendant having breached their common law duty of care to her.

2. During the course of the trial on 6th and 7th March 2025 the Claimant was represented by Mr Simon Mallet and the Defendant was represented by Mr James Marwick.

The issues and evidence

3. There is no dispute that the Claimant began work for the Defendant as a business analyst in May 2017. There is similarly no dispute that the Claimant developed the symptoms of lateral epicondylitis in her right elbow during the course of her employment with the Defendant. In this judgment I will refer to the Claimant's medical condition as tennis elbow. A description used during the evidence in this case, including by the experts.

4. There are two core issues on liability for me to determine in respect of this claim. First, did the Defendant breach its duty of care to the Claimant and, if so, second, was the breach of the duty of care causative of the Claimant's personal injury. There are separate issues in respect of the quantum of the claim if I find in favour of the Claimant on liability.

5. In deciding the issues in this case I heard oral evidence of fact from the Claimant and Chris Martin, an employee of the Defendant. Expert evidence on orthopaedic medicine was given by Mr Richard Scott-Watson and Professor Grey Giddins. For the avoidance of doubt, I have had regard to all of the evidence, including the documentary exhibits, contained within the trial bundles. The absence of an express reference in this judgment to any aspect of the evidence should not be taken as indicating that evidence was not considered. In addition, I am grateful to Mr Mallet on behalf of the Claimant and Mr Marwick on behalf of the Defendant for their helpful written and oral submissions.

The legal framework

6. The legal framework within which this claim must be decided is agreed by the parties. The Claimant's cause of action is common law negligence. It is for the Claimant to establish on the balance of probabilities that the common law duty of care owed to her by the Defendant was breached and that, in turn, that breach foreseeably caused her injury. Calibrated to the facts of this case, it is agreed that that the Defendant owed a common law duty of care to the Claimant to take reasonable steps to provide a reasonably safe place and system of work, and to protect the Defendant from reasonably foreseeable harm.

7. The Particulars of Claim specifically allege at [11] that the Claimant's personal injury was caused by the negligence of the Defendant and/ or their breach of statutory duty. An important qualification to how the Claimant's case may be advanced is provided by the decision in Cockerill v CXK Limited and another [2018] EHC 1155 (QB). The decision is Cockerill made clear that there is no longer an independent cause of action available to a claimant for breaches of statutory duties by employers, see, for example, [15]. Instead, the duties are relevant to the question of what an employer ought reasonably to do. As Rowena Collins Rice, sitting as a Deputy High Court Judge, (as she then was) observed at [18] not all breaches of a statutory regime will be negligent. In Cockerill at [77] it was said that "taking reasonable steps to be satisfied that workplace risks have been properly assessed and controlled is an obvious measure for an employer to take in discharge of its duty of care".

8. In closing submissions, based on the evidence of the Claimant, it was not suggested on her behalf that the Defendant should have been on any specific notice of the need to take particular reasonable steps for her as an individual. I do not intend, given the way in which the Claimant's case was ultimately advanced, to rehearse the evidence given in this context. I am satisfied that the concession was one properly made and reflected the available evidence. Instead, the focus on the issue of breach of duty is on the Defendant's general responsibility to those working in roles like the Claimant's.

The assessment of risks

9. The Claimant said that she had undertaken an online induction when she began employment with the Defendant. In cross-examination she said that the induction involved general health and safety training on how to use a workstation and work safely. Ms Frederick described the training as refreshing her memory. She said that she already knew of the need to take breaks and the like.

10. Mr Martin said in cross-examination that the office used by the business analysts, including the Claimant, was a fairly generic layout. He agreed that individuals did not have their own specific chair or mouse or similar unless they had been through a specific adjustment process. He said that he was not given any general advice on reducing the risk of injury from a mouse or the like. Mr Martin said he was also unaware of any risk assessments. He said "I think that would be triggered by individuals". Mr Martin also confirmed that he had not been given any specific advice around his use of a mouse subsequent to the departure of Ms Frederick.

The amount of mouse work

11. The Claimant began work on the Connect Project ("Connect") in August 2018. Ms Frederick said that she would have expected to be deployed to a project like that in her role as a business analyst. She said that it was a major project with a number of dedicated business analysts. Ms Frederick described that her initial work on the project involved configuration of the system up until October 2018 and then the focus became process mapping. Ms Frederick said that mouse work was a major part of the work on process mapping. She estimated that when working on process mapping each days' work would be comprised of in excess of 80% mouse work.

12. Ms Frederick disagreed with the suggestion made in cross-examination that the mouse work would be regularly broken up by meetings or discussions with colleagues. In re-examination Ms Frederick said that the work in the process mapping phase was 80-90% mouse work that she was doing day in day out. The Claimant estimated that in the first phase of Connect mouse work accounted for about 50% of her daily work.

13. Mr Martin accepted that Connect was a very big and demanding project with deadlines that had to be met. He did not agree with the characterisation that the work was relentless or intensive, instead preferring to describe things as busy. Mr Martin disputed the suggestion that the work ever required as much as 80% work using a mouse. He added that process mapping is a core responsibility of any business analyst and therefore normal work. Whilst Mr Martin accepted that there would have been an increase in the amount of computer work he described such an increase as being "within the realms" of what one would expect as a business analyst. He also stated that all of the work the Claimant did for the Defendant would have had strict deadlines to meet.

Hours worked

14. The Claimant's basic hours were 37.5 per week. The Defendant operated a flexi time policy at the material times. Ms Frederick accepted in cross-examination that it was her responsibility to record her working times. The Claimant's time records for the relevant period formed part of the evidence which I have considered. It was her evidence that the start time was populated by her identification card registering at the security barrier of the office premises where she was principally based. Ms Frederick accepted that it was always open to her to manually add time to the records. The Claimant said that she worked long hours, including from home and at weekends.

15. Pausing there for a moment, I do not accept the Claimant's evidence about how the time records were created. I prefer the evidence of Mr Martin that there was no link between the completion of the time records and the use of an identification card. Mr Martin has been an employee of the Defendant for many years and is, in my judgment, in a better position to give accurate evidence on this topic. Mr Mallet effectively concedes that the evidence of Mr Martin on this issue is to be preferred.

16. The effect of my finding on how the time records were created acts, I am satisfied, to undermine the Claimant's credibility. The reality was that the time records were the exclusive responsibility of the Claimant and therefore the times recorded were her contemporaneous entries. The difficulty this creates for the Claimant's case is that the hours said in her written evidence to be worked were not recorded. Ms Frederick sought to explain this contrast by saying both that she was too busy to record the hours worked

and that as she would have been unable to receive the correct amount of flexi time in lieu there was no point in recording the hours worked.

17. I do not accept the Claimant's explanations for the lack of recording. The Claimant did, at times, record additional hours and was capable of taking time off in lieu. In addition, the Claimant did on one occasion between December 2018 and June 2019 record a working day of twelve hours in length. I am not persuaded in those circumstances that the Claimant was too busy to record the hours. Similarly, even if there was little prospect of taking all of the time off in lieu there would be sound reasons to record additional items, as the Claimant sometimes did. In making these findings I am not suggesting that the Claimant was anything other than a committed employee who worked diligently and effectively. Instead the distinction is whether the evidence sustains a conclusion that the hours were as long and as frequent as the Claimant asserts. I am satisfied that the evidence does not allow me to draw such a conclusion to the necessary standard.

18. For completeness, I find that when the Claimant was asked about telling two separate general practitioners in June 2019 that she worked twelve hour days every day this was not accurate.

The onset of symptoms

19. Ms Frederick's core evidence was that she first experienced symptoms in February 2019. The Claimant was challenged on this in cross-examination in two particular ways. First by her attention being drawn to apparent inconsistencies in the start date looking at the dates recorded by Mr Scott-Watson and Professor Giddins in their examinations of her and in contemporaneous physiotherapy records. Second by the Claimant being asked why she had not gone to see a doctor when her symptoms got worse.

20. In respect of the first aspect of the challenge on this issue I accept that there are apparent inconsistencies between the Claimant's evidence and the dates contained in an number of the documents and reports. However, I also recognise that there are other entries, as Mr Mallet directed the Claimant to in re-examination, which are consistent with Ms

Frederick's evidence. There do, however, remain, on my analysis, inconsistencies in the date the Claimant has given for the onset of symptoms.

21. Those apparent inconsistencies become more important given the Claimant's answer to the second aspect of the challenge. Ms Frederick said that she would have liked to have gone to see a doctor but it could take two weeks to get an appointment so she did not go. I found the answer unconvincing and damaging to the Claimant's credibility. As the Claimant swiftly conceded in cross-examination there was nothing to stop her making an appointment. That Ms Frederick did not seek an appointment until June 2019 acts, in my judgment, to undermine the suggestion that the symptoms began as early as February 2019 or were more serious by April or May 2019.

Reporting matters to the Defendant

22. Ms Frederick accepted in cross-examination that she was aware that she should report any issue to her line manager. The evidence establishes that, at different times, the Claimant's line manager was either Wendy Hand or Ria Sawyer. The Claimant's evidence was that she had raised the issue of her injury with Chris Martin. She said that she had told Mr Martin as he was the person she would go to a day to day basis and that he was responsible for the allocation of work. Ms Frederick said that she reported matters to Mr Martin because her symptoms were getting worse.

23. Mr Martin said that whilst he did look after the workload of the analysts on Connect on a day to day basis he was not the first port of call for other matters. He said whilst he may be aware of a personnel issue the person who would address such things was the relevant line manager.

24. Mr Martin accepted in cross-examination that he had said in his written evidence that he did not recall any discussion with the Claimant about her injury. He also accepted this meant he was not denying such a conversation took place. However, Mr Martin went on to say that on reflection he did not think the discussion took place. He said that given he was responsible for the workload of the analysts he would not have ignored the issue. Mr Martin added that he would have advised Ms Frederick to speak

to Wendy Hand. I accept his evidence on the topic. I am satisfied that if the matter had been raised with him he would have responded.

25. Mr Martin's evidence was that the suggested timing of the discussion was after Ms Frederick had left Connect. If that was the position then this would plainly undermine the overall accuracy of the Claimant's evidence. The Claimant's initial evidence was that she only stopped working on the Connect project in May 2019. She rejected the suggestion that she may have stopped working on the project two months earlier in March. However, that certainty was diluted later in further cross-examination on the same topic. Ms Frederick ultimately said that it could have been the end of March 2019 that she stopped work on Connect, saying that she could not give precise dates.

26. Given the Claimant's concession that she may have left Connect at the end of March 2019, a timing I accept, this further impacts on her credibility. These multiple instances of matters of detail undermining, as I find they do, her credibility as a witness are such as to overcome the submission made on her behalf that it would be implausible for her to have made up a discussion with Mr Martin that did not take place.

27. Ms Frederick was asked in cross-examination why, if no response was received from Mr Martin, she had not escalated the matter. Her reply was to say that she trusted the Defendant to do the right thing and that she did not believe that the onus was on her to tell the organisation what they needed to do. Whilst I accept that there are obligations on the Defendant to take reasonable care of an employee, the absence of any escalation by the Claimant sits uneasily with the purported chronology and the suggestion that the Defendant's breach of duty was causative of the injury.

Later events in 2019

28. The Claimant accepted that after being signed off work in June 2019 there was then very regular contact with the Defendant's occupational health team. There was an agreed plan for the Claimant to return to work on a phased basis from 7th October 2019. In particular, to begin with the Claimant was to work four hours a day including no more than one hour of mouse work. The Claimant's evidence was that the limit on

mouse work was not complied with by the Defendant on her return. It is certainly the position that the Claimant was off work again within a very short period of time.

29. An ergonomic assessment was conducted on 17th October 2019 which recommended a particular mouse and keyboard combination for the Claimant. Ms Frederick said that she was never asked for the information that went into the occupational health report and ergonomic assessment. Ms Frederick did not know where the information within the report came from. That equipment had not been provided to the Claimant by the time she went off work again.

An earlier injury

30. In October 2016 the Claimant sustained a shoulder injury whilst travelling as a passenger on a bus. There is no suggestion that the shoulder injury is in any way linked to the development of her tennis elbow. Ms Frederick's evidence was that she was fit and well when she joined West Midlands Police in May 2017. The relevance of this strand of the evidence, in my assessment, is linked to the Claimant's credibility as a witness generally. As a consequence of sustaining the shoulder injury the Claimant received physiotherapy. In February 2019, according to the relevant notes, the Claimant told a general practitioner that she had suffered shoulder pain since the accident. A few days later in that same month, physiotherapy records state that the Claimant said "since then pain and restricted movement". Ms Frederick's oral evidence was that the records could not be accurate but that she could not recall all of the medical appointments she attended. I accept that this is a further instance where the Claimant's oral evidence stands in unexplained contrast to the documentary evidence and, as a consequence, reduces the weight I can attach to her evidence generally.

The potential causes of tennis elbow

31. There was a measure agreement between the experts that excessive computer use can cause tennis elbow. However, there was not agreement that in this case excessive computer use did cause the Claimant's tennis elbow. Professor Giddins explained that tennis elbow is primarily a constitutional condition that generally develops in an individual aged between forty and sixty. He said that it was, in essence, a degenerative

process. Professor Giddins also said that the condition was not one related to movement but was about the loading of the joint.

32. Referring to the available literature, Professor Giddins said that there was very little established proof that computer use causes tennis elbow. He said that developments in understanding meant that current clinical practitioners did not really believe in the existence of over use injuries. He added that whilst an individual hovering over a mouse would cause pain it was not proven that such an action was the cause of tennis elbow as a condition. Professor Giddins said that it was increasingly understood that the condition occurs randomly and it was not inevitable that an individual would develop the condition on both sides where the cause was constitutional.

Contrasts in expertise

33. There is, I am satisfied, a notable gulf in the respective expertise of Mr Scott-Watson and Professor Giddins. Whilst the Defendant accepts that Mr Scott-Watson is an expert witness it is submitted that his ability to offer persuasive evidence on the cause of the Claimant's tennis elbow is undermined by his lack of recent and relevant clinical experience. Mr Scott-Watson accepted in cross-examination that he was last in clinical practice as an orthopaedic surgeon in 1993. Prior to that he had been a surgeon for five years but also accepted that he had not specialised in upper limb work. Mr Scott-Watson said he had worked in orthopaedics at a time when departments did not sub-specialise. Since 1993 Mr Scott-Watson has focused on the provision of medico-legal work. He said that his main experience relevant to this case was training after he left clinical practice. This stands in contrast to Professor Giddins who maintains a specialist clinical practice in upper limb disorders including tennis elbow.

Resiling from the joint expert report

34. Consistent with convention and in accordance with a case management order, Mr Scott-Watson and Professor Giddins prepared a detailed joint expert report. In his examination in chief Mr Scott-Watson began to distance himself from the contents of the joint expert report and its conclusions. This was an approach that was to continue in cross-examination and, I am satisfied, culminated in his overtly rejecting certain

agreed conclusions. Such a point was reached despite Mr Scott-Watson stating relatively early in his cross-examination that he did not resile from any of the opinions expressed in the joint report.

35. Whilst I acknowledge that Mr Scott-Watson retained the independence to alter his opinion and conclusions, including those contained in a joint report, I was not persuaded by his reasoning. Mr Scott-Watson's essential position was that his resiling from the contents of the joint report was prompted by the oral evidence of both the Claimant and Mr Martin that he had listened to on the first day of the trial. He said in evidence in chief that it was not until he heard the oral evidence of the lay witnesses that he could be certain about the working practices that had been undertaken by the Claimant.

36. He stated that previously he had only had the Claimant's description in interview to go on and that the oral evidence had confirmed an intense period of computer work prior to the onset of symptoms. Mr Scott-Watson referred in his oral evidence to "high intensity" work but accepted that there was no witness had used the expression "high intensity" in respect of the work undertaken by the Claimant. In addition, he later said that his initial opinion was based on excessive computer use and not excessive mouse work in isolation. Albeit Mr Scott-Watson went on to say that the distinction between heavy mouse work and heavy computer work was irrelevant.

37. I am satisfied that there was a range of evidence and other material available to Mr Scott-Watson about the asserted intensity of the Claimant's work, including mouse work, well before trial and, in reality, well before the preparation of his individual and joint reports. A position demonstrated by his diagnosis being "right arm-over use injury". I found his answers on this topic unconvincing and lacking resonance with the clear position articulated in the written material to which he had access.

38. Mr Scott-Watson said that it was not possible to say that work did not cause the Claimant's condition because it could not be said that the cause was constitutional. He said in cross-examination that if the cause was constitutional he would have expected a period of one to two years recovery and not four or five months. Mr Scott-Watson said in cross-examination that because of oral evidence he had heard he no longer agreed

with the joint report where it stated "There does not appear to be any clear link between the Claimant's work and the length of time she was symptomatic".

The experts contrasting conclusions

39. In his supplementary evidence in chief Mr Scott-Watson expressed his opinion as being that on the balance of probabilities the cause of the Claimant's tennis elbow was work related because there was not simply one episode in early 2019 but several episodes each of which had been exacerbated by computer use. In cross-examination Mr Scott-Watson accepted that he was relying on a single record from 5th August 2019 to demonstrate that there was a lengthy period of time for which exacerbation of the symptoms occurred following computer use.

40. Mr Scott-Watson was challenged as to why he had diagnosed an over use injury and not simply tennis elbow. He said that he meant something wider than tennis elbow given the Claimant's description of symptoms in her forearm. Mr Scott-Watson then said "I could have said tennis elbow in my original sole report but it's a bit of a mouthful". I do not accept that suggestion and it acts, I have concluded, to further undermine the reliance that I can place on the evidence of Mr Scott-Watson.

41. Mr Scott-Watson conceded in cross-examination that tennis elbow as a condition was primarily constitutional. He accepted that he had not referred to the possibility of a constitutional cause in his individual report. Mr Scott-Watson said this omission was because the evidence for what caused the condition in the Claimant clearly linked to computer use. In my assessment, this is a clear example of the internal inconsistencies that developed in Mr Scott-Watson's evidence. I formed the clear conclusion as the intensity and precision of the cross-examination developed that Mr Scott-Watson began answering the questions reactively without considering the wider implications for his overall evidence. This example I have identified creates a clear, and I find, unreconciled tension with his explanation for why he wanted to depart from the agreed conclusions of the joint report.

42. Mr Scott-Watson accepted in examination in chief that there was no certainty about when the Claimant had developed her symptoms. He also accepted that there was

evidence from August that the Claimant's symptoms had begun to worsen before then improving. Mr Scott-Watson accepted later in his evidence that if the court were to find that there was only a modest increase in the level of the Claimant's work this would undermine his opinion on causation.

43. Professor Giddins ultimately said that whilst he could not exclude computer use as a cause of the tennis elbow he did not consider such a cause was established on the balance of probabilities. He said that he considered a constitutional cause more likely as there was not a clear, single event that was causative of the injury in this case. Professor Giddins said that an increase of work over a prolonged period was not a single event for these purposes.

44. Professor Giddins said that the oral evidence he heard on the first day of the trial had not altered his opinion on causation. Professor Giddins was cross-examined in a detailed, entirely appropriate manner by Mr Mallett. Professor Giddins was challenged on every point that could reasonably be made on the available lay and medical evidence. His opinion was unwavering.

45. I prefer the evidence and opinion of Professor Giddins. His evidence was measured and consistent. There was no material alteration in his conclusions. Conclusions which I accept were based upon extensive, recent clinical practice allied with a command of relevant research.

Other evidence on causation

46. Mr Mallet, on behalf of the Claimant, placed some reliance on the expert report of Mr Guy Slowik, an orthopaedic surgeon, dated 10th December 2020. Mr Slowik has not been asked to consider any of the reports generated by Mr Scott-Watson and Professor Giddins and he did not participate in any of the joint expert discussions. Further his report was produced before the evidence relied upon at trial by both parties was collated and he did not give oral evidence meaning that his opinion was not the subject of challenge. For that combination of reasons, whilst I have, of course, considered his report I do not find that the report provides any additional support for the Claimant's case.

47. Mr Mallet makes the point that none of the medical practitioners who examined the Claimant in 2019, for example the Force Medical Advisor or a West Midlands Police physiotherapist, ever questioned the described cause of the Claimant's condition. Whilst I accept the accuracy of that observation I do not consider that such is determinative of the issue of causation. None of those to whom the Claimant spoke were in a position where it was necessary to challenge the suggestion as to causation nor was that the focus of their engaging with Ms Frederick. Further, none of those individuals were required to test the Claimant's description of how she worked. I do not accept that an absence of challenge in those circumstances amounts to separate support for the Claimant's case or her credibility as a witness. I am reinforced in this conclusion given the number of frailties I have found were present in the Claimant's evidence when subject to rigorous challenge.

Conclusions

48. I accept the submission made on behalf of the Claimant that the Defendant does not appear to have undertaken any general risk assessment in respect of use of display screen equipment or other computer equipment for business analysts. A position both prior to the Claimant beginning her employment and after she had left. I also accept that the Defendant was capable of undertaking such an assessment given the later risk assessment performed in respect of the Claimant.

49. To adopt the language in Cockerill at [77], there is no substantial evidence that the Defendant took the obvious measure of a general risk assessment in relation to the use of office computer equipment. This does not mean there were no steps taken at all. For example, the Claimant's evidence was the induction training included general training on safe working. However, I am satisfied that a reasonable employer would have undertaken a general assessment of the type suggested on behalf of the Claimant. I recognise that the absence of a general risk assessment is not axiomatic of a breach of the common law duty imposed on the Defendant. Whilst some steps were taken in the introductory training in respect of a safe way of working this was not, in my assessment, sufficient.

50. The detailed assessments and measures taken by the Defendant in June 2019 demonstrate that a range of steps that could have been taken, even at a general level, and were not. Whilst it is for the Claimant to establish matters on the balance of probabilities, there is no evidence from the Defendant to displace my findings on this issue. Put simply, there is no evidence that the Defendant conducted any form of relevant, general risk assessment before the Claimant started her employment with the Claimant. In making this finding I do not consider that the Defendant's duty would have extended to providing an ergonomic mouse and keyboard to every employee without more. Such a requirement would be disproportionate and was not a contention advanced by the Claimant.

51. My finding that the Defendant breached its duty of care by failing to undertake any, or any sufficient, general risk assessment is not decisive of the Claimant's claim. Instead, I have concluded that the evidence does not establish to the necessary standard that such a failure meant sustaining a tennis elbow injury was reasonably foreseeable or that it was causative of the Claimant's injury. In this regard, the evidence in respect of the Claimant's work and the expert medical evidence must be viewed in combination.

52. It was rightly conceded on behalf of the Claimant that parts of her evidence were inconsistent with the documentary evidence and that some parts of her evidence were unreliable. I have already rehearsed a significant number of matters which have led to my finding that the Claimant was a flawed witness whose evidence on crucial topics was fragile and inconsistent with the wider evidence that I accept. I am not persuaded that the amount of mouse work undertaken by the Claimant on Connect was as high as the 80-90% of time that she estimated. Whatever increase there was in the second phase of Connect did not, I conclude, amount to mouse work outside that reasonably expected of employees in the Claimant's position.

53. I also conclude that the Claimant did not work the long hours with the frequency she suggests given my findings in respect of the time recording. This finding acts to further reduce any potential link between a breach of duty and the causation of the Claimant's injury. In addition, having accepted that the Claimant finished work on Connect by the end of March 2019, I also accept that she did not raise the issue with the Defendant until June 2019.

54. Leaving to one side for the moment my preference for the evidence of Professor Giddins over that of Mr Scott-Watson, my factual findings as to the Claimant's increase in work equate to, at most, a modest increase in mouse work. This by itself is a factual conclusion that Mr Scott-Watson conceded would undermine his opinion on causation. Of greater importance, I conclude is my preferring the evidence of Professor Giddins. The fragilities in the Claimant's evidence on the nature of the work, the timing of the work, the onset of the symptoms and the seeking of medical advice combine to point decisively away, I am satisfied, from her tennis elbow being attributable to work. Instead, Professor Giddins evidence that tennis elbow is a primarily constitutional condition that occurs randomly is a compelling and far more likely explanation in the circumstances of the instant case. I also take into account the Defendant's submission that the Claimant has not adduced any evidence to demonstrate that the provision of ergonomic mouse and keyboard would have avoided her developing tennis elbow. Therefore, I reject the Claimant's case that any breach of duty was causative of her personal injury.

55. I have also considered whether the effectively unchallenged evidence that the Claimant had to use a mouse for more hours than had been agreed on her return in October 2019 could by itself, or in combination, establish liability against the Defendant. After careful reflection I am not persuaded by this argument. The Claimant's substantive injury had occurred several months before October 2019 and therefore the later events are not causative of the original injury. There is no evidence which I accept which demonstrates a later exacerbation being caused by a breach of duty. There is no expert opinion to support such a conclusion in any event. In addition, the Defendant had undertaken a bespoke assessment such as to satisfy any duty imposed on them by that time.

56. For the reasons I have given I dismiss the Claimant's claim.