EMPLOYMENT TRIBUNALS

Claimant: Mr T Bayissa

Respondent: Chief Constable of Greater Manchester Police

HELD AT: Manchester **ON:** 9-12, 16-20, 23-27 and 30 April, 1-4 and 8-9 May and 14 June 2018 (10 and 12 April, tribunal only – reading days, 4 and 8-9 May and 14 June tribunal only – deliberations)

BEFORE: Employment Judge Slater
Ms L Atkinson
Ms V Worthington

REPRESENTATION:

Claimant: In person
Respondent: Ms C Widdett, counsel

JUDGMENT

The unanimous judgment of the Tribunal is that:

1. The complaints of unlawful direct race discrimination, harassment and victimisation brought under the Equality Act 2010 are not well founded.

2. The remedy hearing provisionally arranged for 18 July 2018 is cancelled.

REASONS

Claims and issues

1. The claimant brought complaints of direct race discrimination, harassment and victimisation under the Equality Act 2010.

2. The claim form contained what Employment Judge Franey described in his notes of a preliminary hearing on 15 February 2017 as "a brief overview without giving any specific events". The claimant had, in response to a request for further particulars from the respondent, provided a 30 page document on 10 February 2017. Whilst Employment Judge Franey commented that this document was very helpful in setting out the nature of his case, the judge identified drawbacks with the document for case management purposes and ordered the claimant to provide further details, specifying what was to be provided. The document setting out the claims was to be treated as an amendment to the claim. As a result of this order, the claimant produced a schedule of complaints on 23 March 2017. The claimant provided some further details of his complaints on 27 October 2017 which were treated as an amendment to his claim.

3. At the start of the final hearing, on 9 April 2017, the judge went through the schedule with the claimant, clarifying his complaints. The judge produced for the parties a schedule of complaints which, with a few amendments, was agreed with the parties on 11 April 2017. The claimant agreed that this set out all the complaints in respect of which he was seeking a remedy. The parties also agreed a list of the legal issues to be considered which had been produced by the judge.

4. The schedule of complaints was amended in a few respects during the course of the hearing: the claimant confirmed that allegation 11 was not a separate complaint; the claimant identified the protected acts relied upon for each of the complaints of victimisation during his closing submissions, in response to a request from the judge (some, but not all, of the protected acts having been identified at an earlier stage).

5. The final version of the schedule of complaints is set out in Annex A to these reasons.

6. The agreed list of legal issues is set out in Annex B to these reasons.

Case management matters

7. The claimant expressed his unhappiness that the respondent had not complied on time with case management orders, disclosing documents late and serving their witness statements late, despite extensions of time having been given by the tribunal. The claimant produced his own bundle of documents (TB) with documents which he wished to refer to, which were not included in the set of bundles produced by the respondent. The claimant said he had previously provided these documents to the respondent but the respondent disputed this. The claimant brought copies of this bundle for the tribunal members but no copy for the respondent or for

the use of witnesses. The respondent's representative, Miss Widdett, helpfully agreed to make further copies of this bundle.

8. The claimant had not sent his own witness statement to the respondent until the night before the start of the final hearing and the respondent's counsel, Ms Widdett, had not seen it until the morning of the first day of the hearing. The claimant said he had not understood that the order to send witness statements included the statement of his own evidence and, once he had understood this, he had been ill, which had led to the delay in sending his statement. The claimant's statement was 54 pages typed with single line spacing. Understandably, Ms Widdett had not had time to read the statement before the start of the hearing.

9. After adjourning for the afternoon of Monday 9 April and all day Tuesday 10 April, during which time the tribunal read witness statements and documents, the tribunal reconvened the hearing with the parties on the morning of Wednesday 11 April. Ms Widdett made an application that the tribunal should not start hearing evidence until the following Wednesday, 18 April, to allow the respondent to take instructions on the many new matters raised by the claimant in his witness statement and to draft supplemental witness statements for existing witness statement and to obtain witness statements from new witnesses as required, to deal with these new matters. The claimant opposed the application. The claimant said that an adjournment would be a detriment to him but did not identify what that detriment would be. The tribunal decided that it was in the interests of justice that the respondent have time to take instructions on new matters, given the late service of the claimant's witness statement. Balancing the interests of the parties, the tribunal decided to adjourn the start of evidence until Monday 16 April. The tribunal noted that Ms Widdett's instructing solicitor could continue to take instructions from witnesses while the claimant's evidence was being heard. The claimant could be recalled to give evidence, if necessary, to deal with discrete matters, if Ms Widdett had not been able to obtain instructions on all relevant matters arising from the claimant's statement before the claimant finished giving evidence.

Witnesses

10. The tribunal heard oral evidence for the claimant from the claimant himself, and from his wife, Lucy Bayissa. The tribunal also read a witness statement from Detective Constable Paul Bailey submitted on behalf of the claimant. Ms Widdett said that the respondent did not wish to cross examine Detective Constable Bailey. The judge informed the claimant that it would not be necessary, therefore, for Detective Constable Bailey to give evidence, since the evidence in his statement was not challenged. The claimant later expressed unhappiness that Paul Bailey was not being allowed to give evidence. The judge explained again that it was not necessary for Paul Bailey to give evidence since the evidence in his statement was not challenged and the tribunal accepted that evidence. The judge informed the claimant that if he wished to apply for Paul Bailey to come to give evidence not contained in his witness statement, he could make such an application. The claimant did not make such an application.

11. The tribunal heard oral evidence for the respondent from the following witnesses:

Inspector Jacqueline Prest (Sergeant Prest at the time of relevant events and, therefore, referred to in these reasons as Sgt Prest);
Inspector Paul Kinrade;
Inspector David Sutcliffe;
Mrs Mullen-Hurst (Sergeant Mullen-Hurst at the time of relevant events and, therefore, referred to in these reasons as Sgt Mullen-Hurst);
Chief Superintendent Mary Doyle;
Chief Inspector Stephen McFarlane;
Sergeant Richard Brown;
Mr John Dineen;
Police Constable Graham Rothwell (referred to as NBO Rothwell);
Sergeant Sally Watson;
Chief Superintendent Arif Nawaz (Chief Inspector at the time of most of the relevant events and, therefore, mostly referred to in these reasons by that title);
Inspector Christopher Hadfield;
PCSO Orla Lynch;
Sergeant Darren Thomason;
Sergeant Steve Swindells;
Inspector Paul Coburn.

12. The tribunal also read a witness statement from PCSO Peter Townsend. We were told that PCSO Townsend was unable to come to give oral evidence because he is seriously ill. We give such weight as we consider appropriate to that statement given that the evidence cannot be tested by cross examination.

13. Sgt Steve Swindells and PCSO Orla Lynch were new witnesses, whose statements were served during the course of the hearing. The claimant did not object to them giving evidence.

14. The claimant did object to a further new witness, PCSO Carly Malone, giving evidence. The tribunal decided that her evidence would not be of sufficient relevance to the issues we needed to decide, so refused permission for her to give evidence and we did not see her statement.

15. The claimant did not object to the tribunal considering supplemental witness statements for Mrs Mullen-Hurst, Chief Superintendent Nawaz, Sgt Darren Thomason, PC Graham Rothwell, Inspector Prest and Inspector Paul Kinrade, which were served during the course of the hearing, in response to matters in the claimant's witness statement.

16. New documents were disclosed by the respondent and added to the bundles during the course of the hearing. Some of these were in response to matters raised by the claimant in his witness statement. The existence of some of the documents came to light in response to questions from the judge: notes made by Sgt Thomason in his daybook and an email about a referral to occupational health; and notes made by Inspector Coburn during the investigation of the claimant's grievance. The claimant did not object to the tribunal seeing these documents and including them in the bundle.

17. New documents were also disclosed by the claimant and added to the bundles during the course of hearing as a result of questions by the judge about

material the claimant had relied upon to draft his witness statement. The claimant was recalled for further cross examination on these documents.

18. Where new statements and new documents were introduced during the course of the hearing, the tribunal ensured that the parties had sufficient time to read and consider them before deciding whether they had any objections to the tribunal seeing the statements and documents and before cross examining relevant witnesses.

Facts

19. The tribunal heard a great deal of witness evidence and was referred to a large volume of documentary evidence during the course of the hearing. The tribunal does not make findings of fact about every matter referred to in evidence. This is not because the tribunal has ignored that evidence but because it has concluded that it is not of sufficient relevance to the complaints before the tribunal to require the tribunal to make such findings. The tribunal makes findings of fact which are of direct relevance to the complaints before it or which may shed light on the matters complained of, either as to whether the facts were as alleged by the claimant or as to the motivation for those actions. The tribunal is aware that discrimination can be very difficult to prove and inferences may be drawn from surrounding circumstances which may assist in the tribunal's conclusions as to whether discriminatory acts occurred as alleged by the claimant and the reasons for these actions.

20. The tribunal was hearing this case at the time of the 25th anniversary of the death of Stephen Lawrence. As is well known, that death led to the Stephen Lawrence Inquiry and the Macpherson report which concluded that there was institutional racism in the Metropolitan Police at that time. We are aware that, in 1998, the then Greater Manchester Police (GMP) Chief Constable, David Wilmot, acknowledged the existence of institutional racism at a hearing of the Stephen Lawrence Inquiry. He accepted that GMP at the time had a problem with some overt racism and certainly with internalised racism. In those respects, GMP was no different to our society as a whole.

21. We heard evidence about Operation Peel, which directly led to the recruitment of the claimant by the respondent. The claimant has alleged that this operation was "tokenism". We reject that allegation. We accept that Operation Peel was part of a genuine attempt to develop the workforce of GMP as reflective of the diverse community it serves. The principles of Operation Peel were to:

- Attract candidates with attributes that will support policing;
- Ensure GMP's selection processes support the aim, and can deliver a workforce that reflects its communities;
- Support individuals to have a rewarding career with GMP.

22. Operation Peel began in spring 2013, initially with recruitment focused on Police Community Support Officers (PCSOs). Once police officer recruitment started in earnest, in spring 2016, a Positive Action Team (PAT) was established to replace Operation Peel. We accept the evidence of Chief Superintendent Nawaz that this has been highly successful in increasing police officer diversity in recruitment; in the last 18 months BAME recruitment has been at a rate of 22.5%.

23. There was no evidence before us which would enable us to make a finding as to whether there is a greater problem with retention of BAME PCSOs and/or police officers than with PCSOs and police officers not from minority groups.

24. Whatever efforts have been made to improve diversity and attitudes within GMP, it would be surprising if these had managed to eliminate totally conscious or unconscious discriminatory attitudes by some people within GMP. Whilst such attitudes remain in some parts of our society, GMP is unlikely to be immune from these.

25. In this case, our job is to consider the evidence relating to the allegations that have been made. On the evidence before us, are we satisfied on a balance of probabilities, that the relevant events occurred as alleged by the claimant? Once we have made findings on relevant facts, we will go on to consider whether, applying the law to these facts, the complaints of unlawful discrimination are well founded.

26. The claimant joined the respondent as a PCSO on 20 January 2014.

27. PCSOs were introduced under the Police Reform Act 2002. They have some of the powers of police constables, but not all. For example, they do not have the power of arrest. Their powers are set out in the Police Reform Act 2002 and the Anti-social Behaviour, Crime and Policing Act 2014, as amended by other legislation. The National Policing Police Community Support Officer Operational Handbook summarises the primary role of PCSOs as follows:

> "The primary role of a PCSO is to contribute to the policing of neighbourhoods through highly visible patrols for the purposes of reassuring the public, increasing orderliness in public places and being accessible to communities and partner agencies working at local level."

28. New PCSOs with the respondent attend an initial 8 week training course. This is considerably shorter than the training course for new police constables. They then join a division and continue learning on the job. Part of this process is an "in company" period, during which they are always paired up with an experienced PCSO or police officer. This "in company" period is normally 10 weeks but can be increased or decreased at the discretion of the supervisor. We accept the evidence of Sgt Prest that she was not aware of any PCSO having their "in company" period shortened to less than 10 weeks. Once a PCSO has successfully completed their period of working "in company", they will commence independent patrol.

29. The training scheme for PCSOs envisages a large amount of "on the job" training, both during the "in company" period and thereafter.

30. New PCSOs with the respondent have a probationary period of 6 months. During the first 12 months, they complete a Professional Development Portfolio (PDP), which is designed to assist their development as a PCSO. They should have an initial review at 22 weeks and a final review at 11 months with their supervisor. After 12 months, the PCSO moves on to the Staff Performance Appraisal System.

31. The PDP has units with tasks that the PCSO needs to undertake. The PCSO completes activity sheets to record incidents and events they attend. This provides evidence of the PCSO completing the core tasks. There are unit sheets within the PDP with spaces for a line manager's signature to confirm competency in company

for particular elements within that unit and a space for independent patrol (presumably to be signed by the PCSO). For the reviews, there are sheets to be completed by the PCSO, reflecting on their performance in the role and on what they have done so far. There is then a section to be completed with comments by the Neighbourhood Beat Officer or Line Manager. At the initial review, the line manager confirms or otherwise the successful completion of the 6 month probationary period.

32. The claimant was born in Ethiopia but has lived in the UK for a long time. Although he disputes the concept of different races, for the purposes of his Equality Act claims, he identifies himself as black and of African origin.

33. The claimant is clearly a well educated man. There is reference in the documents to the claimant studying for an MA and wishing to progress to a PhD. Although, at times, the claimant sought to downplay his proficiency in English, describing himself as a non-native speaker who learned the language from books, it is clear from the way he gave his evidence and put questions in cross examination and from his witness statement, correspondence and other written material that he has a highly sophisticated understanding of the English language.

34. The claimant gave evidence about some of his career history before joining the respondent as a PCSO. He gave evidence that he had worked for Marks and Spencer as a sales adviser and had worked for a company called Data Monitor plc as a reporting assistant/editor, editing business reports before resigning in 2005 to do a degree. He said his work for Data Monitor had involved sitting at a computer for most of the day, although he attended daily team meetings. In various documents, the claimant referred to resigning from full time paid employment to take up the job with the respondent. In an email to Inspector McFarlane on 25 April 2014, the claimant stated that his last job before joining the respondent was helping in a library, shelving, cataloguing etc.

35. In addition to his paid work, the claimant did voluntary work as an Independent Custody Visitor for Greater Manchester Police and Crime Commissioner, as a street pastor and as a Neighbourhood Watch Scheme Coordinator.

36. The claimant successfully applied to become a special constable but did not take up that role because, before he was due to start, he successfully applied for a position as a PCSO. The claimant met Ian Hopkins, then Deputy Chief Constable of GMP, at a Home Watch conference, speaking about Operation Peel. Mr Hopkins put the claimant in touch with Arif Nawaz, who encouraged the claimant to apply when vacancies arose. The claimant subsequently applied for the role of PCSO and was offered the position to start in January 2014.

37. From his correspondence around the start of his time at Elizabeth Slinger Road station (ESR), it is clear that the claimant was very enthusiastic about being a PCSO. He was clearly very committed to public service and keen to make a positive contribution to the local community he was to serve. An example of his commitment was the clean up day he organised in his area. A number of the respondent's witnesses commented that he was hard working. It is highly regrettable that the claimant's potential contribution as a PCSO has been lost to the respondent. The respondent's witnesses accepted that the claimant felt genuinely aggrieved by what he perceived as unfair treatment by various officers and that he was badly affected

by this. What is in dispute is whether the claimant was subjected to detrimental treatment as he has alleged and, if so, whether his race or complaints of race discrimination played any part in that treatment.

38. Although the claimant frequently portrays himself as someone always willing to learn and open to discussion about how he can improve, this perception of himself did not always accord with the evidence about how he behaved. As has been noted above, there is a considerable amount of "on the job" training required for the role of PCSO. Even after the "in company" period, there will be many learning opportunities arising from situations the PCSO encounters in practice. It appears to us that the claimant underestimated the difficulty of the role; he described it in one email as not being "rocket science". On a number of occasions, he demonstrated either an inability to understand what supervisors were trying to explain could have been done to improve his performance or an unwillingness to entertain the possibility that the way he had dealt with something had not been completely right. An example was the way he acted when he found a confused elderly woman with dementia in the street and took her back to her home without calling for assistance or notifying anyone at the time what he was doing. No one doubted the claimant's good motives. However, the claimant clearly made himself vulnerable to allegations against him by dealing with this on his own. Even at this tribunal hearing, the claimant did not accept that there was anything wrong with how he had dealt with this incident.

39. The claimant began work as a PCSO by attending an 8 week training course at Sedgley Park training centre. The claimant gave evidence that he raised a concern about exclusion and prejudice in the classroom. He gave evidence that he was not happy with how Sgt Trevor Richards handled the matter. The claimant does not make any complaint, in these proceedings, about what happened at Sedgley Park and we have not heard evidence from Sgt Richards. Sgt Smith from Sedgley Park Training Centre wrote on 18 August 2014 that one of the trainers recalled an incident described as an allegation of racism but gave no details about this. It is not necessary for us to make a finding about what concern the claimant raised at the time and we do not do so.

40. The claimant has put in evidence part of a report completed at the end of the 8 week training period. He has quoted the trainer's positive remarks, including the statement: "If you maintain the standards you have set yourself at this early stage of your career I see you having no problems in making a success of this and in anything else that you do." We note, however, that the trainer also wrote that he had noticed that: "on a few occasions that you have been solitary in your dealings with other class members and that does concern me a little, another trainer has also seen this and I have asked myself is it because you have a quiet personality and are not natural [sic] outgoing. Either way you need to be more interactive with your colleagues when you reach division as they are the people whom form part of your team." In answer to a question about any further training needs or support the claimant required, the claimant wrote "further radio procedure." Issues arose later about the claimant not always making the best use of the radio.

41. In an email from one trainer to another on 11 March 2014, the trainer expressed concerns about the claimant's performance on some exercises. The trainer commented that, in facilitative sessions, the claimant would not engage without direct prompting and, struggled to address questions or points. The trainer commented that the claimant "seemed isolated and either unwilling or unable to

engage." He wrote: "I have concerns that in a role that is heavily dependent on high levels of communication skills, this officer will struggle with both his colleagues and his public."

42. The claimant was posted to Elizabeth Slinger Road police station (ESR) in West Didsbury, Manchester. Before he started there, the claimant went to meet some of the people he would be working with. These included Inspector Paul Kinrade. The claimant, in his witness statement, makes an allegation which he had not made previously in internal proceedings or in these tribunal proceedings. The claimant has no contemporaneous note of the alleged comment in his police pocket notebook or otherwise. The claimant alleges that, in the course of asking the claimant questions about himself, Inspector Kinrade talked about the different "negroid races of Africa". Inspector Kinrade denies this. He says he would never use this terminology. The terminology would be highly unusual for anyone to use in conversation nowadays. It is credible that someone joining the respondent who hears a racist remark at the start of their appointment might decide not to raise a complaint at such an early stage of their career. However, we do not consider it credible that the claimant would not have referred to this once he started bringing grievances about his treatment at work, if such a comment had been made. The claimant did not. We find, on a balance of probabilities, that Inspector Kinrade did not make this comment.

43. The claimant began work at ESR on 17 March 2014. His line manager was Sgt Prest. Sgt Prest did not have a neighbourhood beat officer (NBO) at the time; if she had done, the claimant would have been managed by the NBO. Sgt Prest was rather under-resourced at the time.

44. The claimant was the only new PCSO allocated to Sgt Prest. She also had an experienced PCSO, Tony Seal, in her team. There were other experienced PCSOs in Sgt Mullen-Hurst's team. It was a long time since Sgt Prest had had a new PCSO. Police constables supervised by Sgt Prest included black officers and other officers from ethnic minority groups. Prior to complaints brought by the claimant, Sgt Prest had not had any complaints from any PCSOs or police officers in 20 years' service.

45. Sgt Prest is an openly gay officer. She is currently chair of the Pride Network for LGBT officers. One of her responsibilities is to ensure that LGBT members are not subjected to homophobic treatment at work. Sgt Prest sits on a disproportionality panel, discussing diversity issues.

46. Sgt Alex Mullen-Hurst worked the same shift pattern as Sgt Prest and her team. Other sergeants at ESR worked different shift patterns. Sgts Prest and Mullen-Hurst worked the same relief or shift pattern as the claimant although their start and finish times did not always coincide exactly with those of the claimant. It was standard practice that sergeants on the same relief took responsibility for each other's staff when the other was away e.g. on leave. Although Sgt Prest had primary responsibility for managing the claimant, Sgt Mullen-Hurst was responsible for managing the claimant if Sgt Prest was away.

47. Sgt Mullen-Hurst is also gay and in a civil partnership.

48. We find that the claimant was aware from an early stage that Sgt Prest is gay. Although the claimant says he was unaware Sgt Mullen-Hurst is gay, we find it more

likely than not that he became aware of this. Sgt Mullen-Hurst informed us that people would call out to her that her wife was at the station.

49. We find that Sgt Prest had a suspicion that the claimant may have had difficulties in dealing with her because she is a gay woman. We find that Sgt Mullen-Hurst also suspected that the claimant's attitude to her changed when he found out she is gay. We find that Sgt Prest was informed around July 2014 by two PCSOs who had been on the same training course as the claimant that he had made comments about gay marriage which caused them to consider he may hold homophobic views. The claimant says that, whilst on the training course, he answered a question from other trainees about what the Bible says about homosexuality and he quoted from Corinthians. He also accepted that a posting on a BBC website in 2005, which Sgt Mullen-Hurst found by searching on the internet, was by him. He commented in this posting on a news story about the Anglican Church and homosexuality, including the statement "The abominable practice of sodomism by whoever and forcing the church to accept it is tantamount to blasphemy". The claimant insists that he is not homophobic and that he is not prejudiced against anyone. It is not necessary for our decision to find what was said by the claimant on the training course, what his views were at the time about gay people or whether his relationships with Sgts Prest and Mullen-Hurst were influenced in any way, consciously or subconsciously, by their sexuality and we do not do so.

50. The respondent also suggested, in cross examination of the claimant, that his use of language in describing the behaviour of female sergeants as "nagging" and "pecking" his head, was use of language specific to women and indicated a difficulty in being managed by women. The claimant is insistent that he did not understand, as a non-native English speaker, that the use of these terms could be regarded as derogatory towards women in particular; he says he understood them to be gender neutral. We did not see any examples of the claimant using this terminology about male managers and, as we have noted elsewhere, the claimant has a high level of competence in the English language, so we have a degree of scepticism about the claimant's insistence that the use of the terms had no sex-specific implications. However, it is not necessary for us to make a finding as to whether the claimant was in any way prejudiced towards women in a position of authority over him and we do not do so. We note that the claimant also experienced difficulties in his relationships with some male managers, although he did not write about them using the same terminology.

51. We turn now to the events which gave rise to the complaints before this tribunal.

52. Each PCSO at ESR is allocated an area but may be required on occasion to cover other areas. Each "beat" is about 8-9 streets. The claimant was allocated to two beats, L1 and L2 in Chorlton. When not tasked with a particular matter, or responding to a particular incident, PCSOs will patrol their beats, being a visible presence in their area and may take opportunities for community engagement e.g. attending a coffee morning in a care home in their area.

53. Unless other operational demands precluded this, at ESR there was normally a briefing for officers and PCSOs at the start of a shift. If PCSOs started at a different time to police officers, they were not required to attend the briefing. An email from Sgt Brown dated 29 June 2014 stated that PCSOs did not have to attend afternoon

briefings on Mondays, Tuesdays or Wednesdays or mid-shift briefings on Wednesdays, Thursdays and Fridays. At the briefings, there would be an update on what had been happening in the area and tasks would be allocated. Sergeants would pair up PCSOs as required at the briefings. Sometimes, there could be a delay in a PCSO being able to go out if they were paired up and the person they were paired up with had urgent work to complete at the station before they could go out.

54. The normal "in company" period for the claimant would have been 17 March – 25 May 2014 inclusive (10 weeks). From as early as 24 April 2014, his 6th week at ESR, the claimant was asking Sgt Prest if he could go out on independent patrol. He sent emails to Sgt Prest about this on 24 April, 28 April and 9 May 2014. There are no emails in reply from Sgt Prest. We accept Sgt Prest's evidence that her preferred method of communication is generally to speak to members of her team rather than to communicate by email. We accept Sgt Prest's evidence that it was her view that the claimant was not ready to go on independent patrol. We also accept her evidence that she has never had a PCSO go on independent patrol before the end of the normal 10 week period. We find that Sgt Prest refused to allow the claimant to go on independent patrol in April and that part of May 2014 which fell during the normal 10 week "in company" period because she did not consider him ready to go on patrol on his own. Sgt Prest had a duty of care to the claimant and to others which required that she be satisfied that he was sufficiently competent to be allowed to patrol alone, without putting himself or others potentially in danger. As previously noted, in our description of the training of a PCSO, the "in company" period is stated in the PDP material to be normally 10 weeks but can be increased or decreased at the discretion of the supervisor. There is nothing unusual or untoward, therefore, in a supervisor deciding not to allow a new PCSO to patrol independently before the end of the 10 week period or, indeed, for an extended period after 10 weeks. The discretion is a recognition that there is a lot to learn as a PCSO, experiences will vary during the 10 week period and new recruits will learn at different rates.

55. The claimant alleged, for example in his email to Catherine Hankinson of 8 September 2014, that other supervisors/sergeants allowed their PCSOs who started way after him to start independent patrol within seven weeks of starting the "in company" period. However, he has never named any PCSOs whose "in company" period has been reduced from 10 weeks. He did not suggest that Sgt Prest had ever allowed a PCSO to patrol independently earlier than the end of the recommended 10 week period.

56. We accept that Sgt Prest believes that she spoke to the claimant about not being ready to go on independent patrol. We note that, when dealing with the grievance against her, she annotated the email of 28 April 2014 to indicate that she had given a verbal update. The fact that the claimant sent further emails after that of 24 April 2014 suggests that Sgt Prest had not spoken to the claimant in clear enough terms by 9 May 2014 for the claimant to understand that he was unlikely to be considered ready for independent patrol before, at the earliest, the end of the 10 week period. In an email to Sgt Prest sent on 12 July 2014, the claimant was alleging that Sgt Prest had not answered his emails asking to release him to start independent patrol. We note that Sgt Prest forwarded this email, which referred to various matters including the requests for independent patrol, to Sgt Mullen Hurst and Sgt Davies, suggesting that they fully document any dealings with the claimant in future due to what Sgt Prest alleged was the claimant's "clear misunderstanding

and recall of situations". Even taking the claimant's email at face value, we note that, in that email, he wrote that Sgt Prest was reluctant to allow him independent patrol, which could suggest that Sgt Prest had communicated her view to the claimant that he was not ready to start independent patrol. The claimant emailed Inspector Kinrade on 8 May 2014 asking if he could be allowed to start independent patrol earlier than the end of the 10 week period. Inspector Kinrade does not recall the specific email but recalls discussing with Sgt Prest the claimant's suitability for independent patrol, although he does not recall exactly when this was and there is no note of such a conversation. We do not find the absence of a note to be surprising; we accept that Sergeants and Inspectors do not routinely record the many conversations they have on a daily basis about police officers and PCSOs. We accept Inspector Kinrade's evidence that he spoke to Sgt Prest about the claimant's suitability for independent patrol and was informed by her that she did not consider the claimant ready, at that time, for independent patrol. Inspector Kinrade trusted Sgt Prest's judgment on this as a very experienced sergeant and the claimant's supervisor. We find that Inspector Kinrade did not reply directly to the claimant's email by email or orally; Inspector Kinrade did not recall the email or any reply. However, he spoke to Sgt Prest so we consider it more likely than not that he would expect Sgt Prest to deal with the claimant's requests for independent patrol. There remains a dispute between the claimant and Sgt Prest as to whether Sgt Prest spoke to the claimant about his requests. We find, on a balance of probabilities, that Sgt Prest did not reply to the claimant until after the emails of 8 and 9 May although her continuing to pair the claimant up for patrol was an implicit rejection of his requests. However, once Inspector Kinrade had spoken to Sgt Prest about the matter, we find it more likely than not that Sgt Prest spoke to the claimant about his requests and made clear that she did not consider him ready for independent patrol. As noted above, the reference in the claimant's email of 12 July 2014 to Sgt Prest being reluctant to allow the claimant to patrol independently suggests that she did make her views clear, although she did not respond in writing to the claimant's emails. The claimant did not make any further requests, after 9 May 2014, until after the end of the 10 week period, to go on independent patrol, suggesting that he had received an answer to his requests. We find, on a balance of probabilities, that Sgt Prest did reply orally, on or after 9 May 2014, to the claimant's emails asking to go on independent patrol and to do jobs.

57. The claimant alleges that Sgt Prest asked whether or not he had done or completed surveys, in front of others, and said words to the effect "do you realise it's getting closer to the deadline." The surveys referred to are surveys required by the Home Office. They are very important as they determine matters such as the level of funding given to police forces. A list of addresses belonging to members of the public is generated and officers visit the people at the addresses to carry out the surveys which include questions about the member of the public's view of their local police service. There is a limited time frame within which the surveys are completed. It is common ground that Sgt Prest asked the claimant about the completion of surveys. We find that she asked all staff frequently whether they had completed surveys and reminded them of the deadlines for completing surveys. We reject the claimant's evidence that he was the only person she asked about surveys in the briefing room. We prefer Sgt Prest's evidence that she asked all staff responsible for surveys; due to the importance of getting these done, it is not credible that she would not chase others responsible for completion of surveys. We find that she asked the claimant and others about this because of the importance of getting the surveys completed. In

turn, Sgt Prest was asked by her superior officers about progress in completing the surveys. The claimant has alleged in his witness statement that Sgt Prest shouted at him when asking if he had done the surveys. We note that, when writing to Sgt Prest on 12 July 2014, the claimant wrote that Sgt Prest "asked me whether I had finished the Quarterly Surveys or not in front of every one, when you knew fully well that, at the time, I was not allowed to go out Independently." He did not allege that Sgt Prest had shouted at him. At this time, his complaint was, rather, about not being allowed to patrol independently and this making it difficult for him to complete the surveys. We consider that, if Sgt Prest had shouted at him when asking about the surveys, the claimant would have recorded this in the email of 12 July 2014. We find, on a balance of probabilities, that Sgt Prest did not shout at the claimant when asking about surveys; there was nothing improper about the way she asked the claimant about these and nothing different to the way she asked any one else who had surveys to do.

58. The claimant alleges that Sgt Prest did not make an effort to pair the claimant up with another officer. It does not appear that this allegation was made in writing prior to these proceedings and it does not appear in the original Scott Schedule. The claimant gave evidence that he had raised this issue in the stage 2 grievance meeting with Chief Inspector Nawaz and Mr Winstanley. There is no note of this and it is not an allegation addressed by Chief Inspector Nawaz. We find, on a balance of probabilities, that it was not a matter raised during the course of internal proceedings. We accept Sgt Prest's evidence that she paired the claimant up with an experienced PCSO or police officer, usually at the briefing at the start of a shift. As previously noted, there may have been times when there was a delay in the claimant being able to go out, if the person he was paired up with had urgent paper work to complete before going out on patrol or to whatever task had been assigned. We reject the claimant's assertion that Sgt Prest did not make an effort to pair him up with another officer during his "in company" period. We find that Sgt Prest made normal efforts to pair the claimant up with another PCSO or police officer as she would do with any PCSO needing to be "in company". There is no evidence that anyone else was, or would have been, treated differently.

59. The claimant alleges that, in April/May 2014, Sgt Prest stopped the claimant leaving the station independently to collect CCTV. The claimant does not address this specifically in his witness statement. In so far as this relates to a specific occasion, we believe it may relate to an occasion on 8 May 2014 since the claimant wrote in his email to Sgt Prest on 9 May 2014, asking to go on independent patrol, that he could have gone to the city centre the previous day to pick up CCTV footage by Metro/bus, but had to leave it as there was no one available to take him there after Ken had gone off duty. The claimant, when asked about allegation 3, referred to having complained about not being paired up, so it appears to be linked to the allegation that Sgt Prest did not make an effort to pair him up with another officer. We find that, in so far as the claimant was prevented from leaving the station independently to collect CCTV, this was because he was still in his "in company" period and there was no one available at the time the claimant wanted to collect the CCTV to accompany the claimant. As previously found, Sgt Prest considered that the claimant was not ready, prior to the end of the 10 week period, for independent patrol. Because of this, the claimant was not allowed to go out to do jobs on his own until Sgt Prest considered him ready for independent patrol.

60. The claimant alleges that Sgt Prest, in April and May 2014, failed to give the claimant jobs when he requested them. The period the claimant refers to is almost completely during the 10 week "in company" period. When out on patrol or on other jobs out of the station, the claimant would, during the "in company" period have been working together with another PCSO or police officer. When not tasked with a specific job, a PCSO's role is to patrol their "beat", engaging with the community and responding, as appropriate, to incidents of which they were notified by communications on their radio. In the claimant's email to Sgt Prest of 4 June 2014, he wrote: "After having spent some time observing how things were, I asked to be given tasks, and to be allowed independent patrol, so that GMP can make effective use of resources." It appears from this that his complaint about not being given tasks at this time was linked to his request to go on independent patrol; he wanted to do tasks on his own, on independent patrol, rather than working alongside another PCSO or police officer. In his email of 12 July 2014, the claimant writes about asking for tasks whilst still in company. It is clear from the documentary evidence that the claimant was doing jobs, before and after the end of his "in company" period. We accept the evidence of Sgt Prest that she gave the claimant tasks to do as she did with other PCSOs and police officers. This was often done at the briefing at the start of a shift. Whilst "in company", any tasks to be done outside the station could not have been tasks for the claimant to do independently. The claimant's "in company" period ended only a few days before the end of May. The claimant has made no complaint that Sgt Prest did not give him jobs after the end of May. We find, on a balance of probabilities, that Sgt Prest did not fail to give the claimant jobs which were appropriate to a PCSO "in company". The period of complaint after the "in company" period is too short to draw any conclusions about and the claimant has not given any specific examples about Sgt Prest refusing to give him jobs on the few work days in May after the "in company" period had finished.

61. On 27 March 2014, the claimant forwarded to Sgt Prest an email from PC Lee Coulson about PCSO Crime Reduction training, which had been arranged for the morning of Monday 31 March. As is apparent from PC Coulson's email, the claimant was on a different shift to the other PCSOs and was not due to be at work on 31 March; PC Coulson asked the claimant to let him know if he had any problems changing shift. The claimant wrote to Sgt Prest, referring to the training, stating: "That day is my day off, I am attending the training. I hope I would be given alternative day off." Sgt Prest replied the following day, writing that she would prefer the claimant to pick an alternative date rather than a rest day, as this was only a couple of hours training. Sgt Prest suggested an alternative arrangement on 3 April which would keep the claimant on his area and link in with the set up of a new Homewatch Scheme. She asked Gill Price (who was to provide the training), by copy of the email, if she could assist the claimant and come to ESR on 3 April. Unfortunately, as Gill Price confirmed in an email on 21 August 2014, going from memory, since she no longer had the relevant emails, Gill Price was unable to assist on that day because, due to work demand, they did not have the capacity to train PCSOs one to one. However, she said she would inform E2/E3 when training was next available for PCSOs. We accept Sgt Prest's evidence, which is supported by her email of 28 March 2014, that she refused the claimant's request to go on the training on 31 March 2014 because this would have involved a change of shift and was only a couple of hours' training. Although Sgt Prest had not made this explicit in her email of this date, we accept her evidence that it would not have been feasible for the claimant to attend the training and then return to the station to complete his

working time since none of his relief would have been on duty that day. There is no evidence to suggest Sgt Prest would have treated a request from any other PCSO who was due to be on a rest day on the proposed date of training in any other way.

62. The claimant alleges that, in the period March – May 2014, Sgt Prest refused his request to visit Communications (the Operational Control Room - OCR). A PCSO's PDP has a section to be completed about the OCR. One question is: "What is the make up of personnel of the Operational Control Room (OCR) you are visiting?" This clearly contemplates that the PCSO will visit an OCR at some point prior to their final review, which takes place at the end of 11 months' service. Sgt Prest accepts that the claimant asked for an opportunity to visit OCR. Sgt Prest gave evidence that she had said this was not appropriate at the time; her view was that it was nice to see it and how it operates but it was just a room. We find that Sgt Prest refused the request to visit OCR at that time. We accept Sgt Prest's evidence that, at the time, she did not consider it the most critical thing they could do. During this time, the claimant was still within his "in company" period and Sgt Prest considered that it would be more beneficial for the claimant to spend his time with someone else, benefitting from their experience. She suggested that they would arrange a visit for a different time but this did not happen because the claimant left her team. The claimant visited OCR when he moved to J relief under the temporary supervision of Sgt Swindells.

63. It is common ground that the claimant asked to have police vehicle training some time in the period March to May 2014 and Sgt Prest refused this request. The claimant alleges that Sgt Prest said "you won't get it in years". Sgt Prest denies making this comment. It is not necessary for us to make a finding as to whether it was said. We find that Sgt Prest refused the request because, in accordance with a Chief Constable's circular 2009/31, where possible, PCSOs were expected to use alternative methods of transport to driving a motor vehicle when performing their duties. This circular, which was re-circulated by Sgt Mullen-Hurst at ESR in September 2014, stated that PCSOs were only to drive (if they had passed appropriate driver training) in certain specified situations. It stated they were not authorised to drive for routine patrolling. PCSOs could only drive a police vehicle with permission from a supervising officer. When recirculating the Chief Constable's circular, Sgt Mullen-Hurst included instructions from Inspector Kinrade that PCSOs were to walk/use pedal cycle/public transport where reasonably practicable. We accept Sgt Prest's evidence that she had not authorised any PCSOs going on driver training since the Chief Constable's circular. Sgt Prest encouraged the claimant to complete his police bicycle test and, after he failed this, lent him her cycle equipment to use to practise and gave him permission to practise for his next test at the start of their tour of duty whenever practicable.

64. We find that Sgt Prest began to have concerns about the claimant's performance around May 2014, when a number of officers approached Sgt Prest with their concerns. The claimant has asserted throughout this case that none of the concerns raised about his performance were justified. He has also suggested to every witness that they could not properly form a view as to his performance unless they personally had witnessed the relevant event. In his closing submissions, the claimant asserted, amongst other things, that officers had been desperate to find fault in his actions and that, to supervisors, everything he did was wrong and nothing he did was ever right. He alleges he was falsely accused. He alleges, in his witness statement, that he was "picked on" from day one.

65. It does not appear that the claimant is suggesting that officers did not raise concerns about him with Sgt Prest. It is not entirely clear to us whether the claimant is alleging that the officers who raised concerns with Sgt Prest were not telling the truth or were honestly mistaken in their concern. In the entry written in his pocket note book on the day, the claimant writes that he was "a bit discouraged by this petty attitude and gossip falsely accusing me without evidence or reason but I do suspect they have some hidden agendas." This suggests he was suspecting the officers approaching Sgt Prest of making up allegations, although he did not expand in his notes as to what the "hidden agendas" might be. Nor has the claimant clarified in these proceedings what the motivation for making up concerns about him might be, other than a general allegation of racism. We note that, in his email of 4 June 2014, he referred to the views expressed by the officers who had raised concerns with Sgt Prest as "gossips' opinion based on personality-preference" which may suggest that he did not, at the time, consider racism to be behind what he viewed as unfounded criticism.

66. We find, based on the evidence of Sgt Prest and PCSO Orla Lynch, one of the officers who raised concerns with Sgt Prest, that concerns were raised with Sgt Prest about the claimant's performance which were relevant to the issue of whether he was ready for independent patrol. PCSO Orla Lynch informed Sgt Prest that she had repeatedly had to tell the claimant how to use GMP systems. Orla Lynch informed Sgt Prest that the claimant did not appear to listen to the advice she was giving him. PC Claire Campbell informed Sgt Prest that the manager of a local store had questioned whether the claimant was a "real" PCSO as the manager thought the claimant did not appear to know what he was doing.

67. Although it appears to us that the claimant's "in company" 10 week period would not have finished until 25 May 2014, the claimant went on independent patrol on 23 May 2014. The claimant gave evidence that he did this with the knowledge of DS Davis. The claimant alleges that Sgt Prest was unhappy about him going on independent patrol that day and disputed that 23 May 2014 was the end of the 10 week period. Sgt Prest has accepted in evidence that it is likely she was unhappy about the claimant going on independent patrol on 23 May.

68. It appears that the claimant was on independent patrol from 23 May 2014 until instructed to be in company at a later date by Sgt Mullen-Hurst, until performance concerns could be discussed at a meeting. We return to this later.

69. On 30 May 2014, Sgt Prest wrote to one of the trainers at Sedgley Park. She asked how PCSOs are assessed as being fit for independent patrol. She wrote: "My PCSO in particular has not had another PCSO to go out with on a reg basis, he has had to go out with several officers but now has completed his 10 weeks and when I asked about what happens now he doesn't know and states there is nothing in his PDP for my [sic] to sign as Competent??" She asked for advice. This email supports our finding that Sgt Prest had concerns at this time about whether the claimant was competent to go on independent patrol. It also suggests that, at this point, the claimant had not showed Sgt Prest his PDP.

70. Sgt Prest wished to discuss with the claimant the issues which had been raised with her. This led to the meeting on 3 June 2014.

71. The claimant makes a number of allegations about Sgt Prest's behaviour on 3 June 2014. There is common ground that Sgt Prest asked the claimant to stay behind after a briefing on that day and that they then met together in private. The claimant alleges that Sgt Prest shouted his name, in front of others, when she asked him to stay behind. Sgt Prest denies she shouted at him. We note that the claimant wrote, in his pocket note book, towards the end of his tour of duty on 3 June, that "Earlier today, Sarge asked me to stay behind after the 7.30 am briefing." Also, in an email to Sgt Prest sent the following day in which he said he would like to raise "some points as a serious matter of concern for my future work at GMP", the claimant made no allegation that Sgt Prest had shouted at him. We consider that, if Sgt Prest had shouted at the claimant, the claimant would have noted this in his pocket note book and raised it in his email the following day. We find, on a balance of probabilities, that Sgt Prest did not shout the claimant's name when asking him to stay behind. We accept Sgt Prest's evidence that it was common practice for her to ask a member of her team to stay behind after a briefing if she needed to speak to them.

72. There is some common ground as to the matters raised by Sgt Prest in the one to one meeting which followed on 3 June 2014. It is agreed that Sgt Prest informed the claimant that some other officers had approached her with concerns about the claimant. It is agreed that the claimant wanted to know the names of the officers. The evidence of Sgt Prest and the claimant then diverge in a number of respects. The claimant alleges that Sgt Prest told him that other officers had said he was not ready for independent patrol and that she said he was not suitable for this job. Sgt Prest says she told the claimant he may not be ready for independent patrol just yet. She denies she told him he was not suitable for the job. The claimant alleges that, when he asked the names of the officers who had raised concerns with Sgt Prest, Sgt Prest refused to tell him, saying that she had a duty of care to protect the privacy of her officers. The claimant says he then asked "Am I not one of your officers, Sgt" and Sgt Prest did not reply. Sgt Prest says she gave the claimant the name of PC Claire Campbell, since this officer had agreed that she could be identified. She did not give the name of PCSO Orla Lynch, explaining that this officer did not want to be identified. Sgt Prest said she did not recall the claimant asking whether he was not a member of her team. She said in evidence that she did regard him as a member of her team. We accept this evidence and find that Sgt Prest would have assured the claimant that he was one of her officers, or a member of her team, if he had asked this question. On a balance of probabilities, we find that the claimant did not ask this question. It is not recorded in the claimant's note book or in the email he sent the next day. We prefer the evidence of Sgt Prest to that of the claimant where their accounts diverge. The evidence of Sgt Prest is more consistent with her contemporaneous record in her day book and is not inconsistent with the record made by the claimant the day of the meeting in his pocket note book. The claimant does not record in his pocket note book that Sgt Prest said he was not suitable for the job. If this had been said, we consider the claimant would have recorded it in his note book and in his email sent the next day; he did not. We find that Sgt Prest did not tell the claimant he was not suitable for the job. The claimant also noted in his notebook that Sgt Prest had told him that PC Campbell had been one of the officers raising concerns, although his witness statement states that Sgt Prest refused to tell him who had told her about him. The fact that Sgt Prest agreed that the claimant could go on independent patrol also makes it more likely that she expressed concern about whether he was ready for independent patrol rather than saying he was not

and that he was not suitable for the job. We find she did not say he was not ready for independent patrol, although she expressed concern about his readiness. We accept that Sgt Prest came to the meeting with the intention of being supportive to the claimant, offering help to enable the claimant to develop. We accept the claimant found the meeting humiliating. However, it was not Sgt Prest's intention to humiliate the claimant.

73. The claimant wrote to Sgt Prest the following day. He dismissed the concerns raised by officers to Sgt Prest as gossip and their expressed view that the claimant was not ready for independent patrol as "utterly misguided." It is clear from the email that the claimant did not consider that there was any merit in the concerns which had been raised.

74. The claimant was on rest days and annual leave in the period 28 June to 5 July 2014 inclusive.

75. During the claimant's absence, on 30 June 2014, as part of her normal duties as a sergeant, Sgt Prest was carrying out a review of outstanding Fwins for all PCSOs and PCs. These are calls for service still in a queue which have not had a crime attached to them. Sgt Prest is required to check the incidents and be satisfied that, under National Crime Recording Standards (NCRS), everything in the incident which was a potential crime has been recorded. One of the Fwins she reviewed concerned a motorbike incident where the claimant was noted as the investigating officer. This did not have a crime attached. Sgt Prest noticed that there were some lines of enquiry that the claimant had not followed up and a potential crime so sent him an email that day to address the points. Sgt Prest was aware the claimant was on leave at the time but the actions in the email were not time critical and she sent it for him to pick up on his return to work. We accept Sgt Prest's evidence that, had it been time critical, she would have allocated the matter to another officer to deal with in the claimant's absence. Sgt Prest was not expecting the claimant to access his work emails and do anything about this during his leave. We accept that Sgt Prest had not raised the incident with the claimant before he started leave because she was not aware of it until she went through the Fwins on 30 June 2014. We accept Sgt Prest's evidence that she sent emails to other PCSOs and officers where issues arose from Fwins. In her email, Sgt Prest asked Ken, the Neighbourhood Beat Officer, to sit down with the claimant and explain what should have been done. Sgt Prest suggested some actions to be taken, including speaking to the person who was abused by the bike rider. She asked the claimant to update the Fwin, stating that it was not currently NCRS compliant, until she knew when he had spoken to the person abused whether there was enough for a crime. The tone of the email is consistent with Sgt Prest's evidence that she saw this as a learning opportunity rather than a fault finding mission. The claimant does not accept that there is anything he could have done in relation to this incident other than what he did. He alleges in his witness statement that the email has nothing to do with learning but is "heavy-handedness as part of the deep-seated and cunning police racism against Black officer." We find that Sgt Prest genuinely considered there were lines of enquiry which could have been pursued and that there were matters the claimant needed to attend to on his return to work in relation to this incident, as set out in her email.

76. On 2 July 2014, although on leave, and unaware of the email to him of 30 June 2014, the claimant sent to Sgt Mullen-Hurst, copied to Sgt Prest, an email

relating to a job where Sgt Mullen-Hurst had told the claimant to complete a "hate incident". Sgt Mullen-Hurst forwarded this to Sgt Prest, stating: "FYI – this was **not** the conversation at all that I had with Tegegn."

77. On 7 July 2014, the claimant sent Sgt Prest an email in response to her email of 30 June about the motorbike incident. The claimant wrote: "I looked at this fwin and remember COMMS asked me to go and have a look at the bike which was quite far away from where I was. So by the time I got there, it had disappeared so there was no trace of the bike. But thank you for the info on the Legislation." It appears that Sgt Prest may have overlooked the email at the time, since she wrote again to the claimant on 9 July about the incident, without referring to this email. However, Sgt Prest annotated a copy of this email when dealing with the grievance against her. The annotation includes a statement that the reply did not address all the points she had raised and that this was an example of the claimant not thoroughly understanding what was being asked. The claimant's email does not express an intention to carry out the steps Sgt Prest had asked him to do in her email of 30 June or acknowledge that there were things that could have been done, which had not been done. We consider that the claimant completely missed the point of Sgt Prest's email. At this hearing, the claimant still did not demonstrate any understanding or acknowledgement that there were things he had not done which he could and/or should have done in relation to the incident. We will return to the correspondence relating to the motorbike incident shortly.

78. On 6 July 2014, the claimant, along with Sgt Prest and some other officers, attended the Beech Road Family Fun Day event in Chorlton. The claimant was security marking bikes at the event. We find that, on 7 July 2014, Sgt Prest had a telephone call from a person who had had their bike marked by the claimant at the event. The caller complained that the claimant had put their full address on the bike, rather than just the postcode, and that the marking had not been done properly, since the caller had been able to wipe the marking off. Secure marking required use of a pen and then lacquer over the pen. Standard practice was to mark using the postcode but not the person's full address. The claimant has disputed that there was any complaint made by a member of the public. In his closing submissions, he states that "the so called 'complaint' was a fraudulent 'complaint'. Nobody complained. Sgt Prest and Mullen-Hurst made it up." The claimant asserts that there can be no complaint without a log/reference number for it. We prefer the evidence of Sgt Prest, supported by the brief entry in her day book, that there was a telephone complaint on 7 July. The day book entry does not give further detail but we accept the evidence of Sgt Prest about the substance of the complaint and that there was no log with an incident number because this came from a call to their neighbourhood office rather than going through the Communications operator. The complainant just wanted to highlight her unhappiness and that others might be under the mistaken belief that their bike had been securely marked when the marking could simply be wiped off. Sgt Prest was able to resolve the matter informally to the complainant's satisfaction so there was no need to record a Fwin.

79. Sgt Prest had some conversation with the claimant about the bike marking on 7 July 2014. The claimant alleges that Sgt Prest said, over the radio, that he had damaged someone's bike and relies on this to suggest that Sgt Prest changed her story over time and was making up the complaint. For the reasons given above, we reject the suggestion that Sgt Prest made up the complaint. The claimant does not have any contemporaneous note of what was said and we are doubtful about the

accuracy of his recall as to the exact words used. However, we do not consider it necessary to find whether Sgt Prest used these words when speaking to the claimant and do not do so. If we had considered it necessary to make a finding, we would, by application of the burden of proof, have found that Sgt Prest did not say that the claimant had damaged someone's bike.

80. Sgt Prest says that she asked the claimant who had shown him how to mark bikes by using the owner's full address, the claimant told him that PC Thornley had shown him how to mark bikes using the owner's full address so Sgt Mullen-Hurst made enquiries with PC Thornley about this. This evidence is supported by what was said in the meeting on 8 July as recorded in notes taken by Sgt Mullen-Hurst.

81. On 8 July 2014, Sgt Prest had a meeting with the claimant about the bike marking, with Sgt Mullen-Hurst present to take notes. Sgt Mullen-Hurst took notes during the meeting and we accept these notes as an accurate summary of the meeting. The claimant made a short note after the meeting in his pocket note which records that Sgt Prest asked him about a problem with bike marking on 6 July, it was an argumentative meeting where he felt intimidated and that Sgt Mullen-Hurst was taking notes. The claimant states in his witness statement that the meeting went on for about two hours. We consider that the timings put down by Sgt Mullen-Hurst in her day book are more likely to be accurate than the claimant's evidence, which would mean the meeting was approximately 40 minutes long. The claimant alleges in his witness statement that Sgt Prest swore and slammed her fist down on the table before leaving the room and saying, as she left, that they would continue with the meeting later. The claimant makes no mention in his entry in his pocket note book of Sgt Prest swearing and slamming her fist down on the table. Sgt Prest and Sgt Mullen-Hurst deny this happened. We prefer the evidence of Sgt Prest and Sgt Mullen-Hurst. If this had occurred, we consider it more likely than not that the claimant would have recorded it in his pocket note book.

82. At the meeting, the claimant said he had used the pen kit (rather than a stencil kit with paint and a unique number which PC Thornley had shown him). Sgt Prest read the instructions for the kit which said to put postcode, house number, not the full address. The claimant said it was no different from putting the full address on as anyone could find the address from the number and postcode. PC Ken Sirr, who had also been marking bikes at the event, was brought into the meeting and said he had told the claimant to use the house number and postcode. Sgt Prest said she had told the claimant that, if he ran out of lacquer, to record the person's details and they could do the marking later, and that the claimant had disregarded that instruction. She said that, as a result of not using the kit properly, lots of people thought their bike was property marked but it could be wiped off. The claimant said the lacquer could be scraped off. Sgt Prest said that, if it was scratched off, this would damage the bike and identify it as possibly stolen goods. The claimant said he felt intimidated. Sgt Prest told the claimant this was just a training need. Sgt Prest asked the claimant to make a list of all the bikes he had marked so that GMP could rectify it. The claimant alleges in the list of complaints that Sgt Mullen-Hurst questioned him and elaborated on the importance of putting on the post code. The claimant gave no evidence that Sgt Mullen-Hurst questioned him and the notes of the meeting do not attribute any questions or comments to her. We find that Sgt Mullen-Hurst's role was that of a note taker and she did not play any other significant role in this meeting.

83. On 8 July 2014, shortly after the meeting with the claimant about bike marking, Sgts Prest and Mullen-Hurst had a conversation with Inspector David Sutcliffe about the claimant. We accept Inspector Sutcliffe's evidence about this meeting, which is supported by an entry in his pocket note book. Inspector Sutcliffe was not in the claimant's direct management line, but was the line manager for Sgt Mullen-Hurst. Sgt Prest and Sgt Mullen-Hurst told Inspector Sutcliffe of concerns they had about checks the claimant was making using the Force's Opus system and use of a notebook separate to, and in addition to, that issued by GMP. They also raised concerns about the claimant's performance. Inspector Sutcliffe told Sgt Mullen-Hurst to send him an email outlining the concerns regarding the claimant's computer access. He did this because, if there was any suspicion that an officer was using the Force's systems for anything other than for a genuine policing purpose, he was under an obligation to report it to the Force's Counter Corruption Unit (CCU). We accept that Inspector Sutcliffe would have taken the same action in relation to any other officer about whom similar concerns were raised. In his notebook, Inspector Sutcliffe wrote: "continue with potential action plan in relation to other performance issues." This indicates that, by this stage, the claimant's senior officers were considering that an action plan might be required. An action plan is a development tool which may be used to address a specific issue or issues where a need for development or improvement has been identified.

84. Sgt Mullen-Hurst sent Inspector Sutcliffe an email in the evening of 8 July, setting out her concerns about the claimant's computer use and use of a non GMP notebook. We accept that Sgt Mullen-Hurst raised her concerns with Inspector Sutcliffe because she felt professionally obliged to do so.

85. Some time in July, Sgt Mullen-Hurst was informed by Sgt Prest that two gay female PCSOs had told her that the claimant had made what they considered to be homophobic comments on the training course at Sedgley Park. Sgt Mullen-Hurst made an informal complaint to Inspector Sutcliffe about her belief that the claimant held homophobic views. Inspector Sutcliffe told Sgt Mullen-Hurst to research the claimant to see if there was anything to support what she was telling him about the claimant. He also told her to check the respondent's OPUS computer system to see if she could find any evidence of the claimant's computer misuse. Sgt Mullen-Hurst found the comment made by the claimant on a BBC website in 2005, to which we have referred previously. She forwarded this to Inspector Sutcliffe on 27 July. She submitted two 5x5x5 reports (intelligence reports) to Inspector Sutcliffe as the Inspector had asked her to put the information about potential computer misuse and concerns about potential homophobic views and behaviour in this format. Inspector Sutcliffe informed her that he would forward the reports to the Professional Standards Branch if he deemed it necessary. Sgt Mullen-Hurst was not informed what, if any, action was taken after her reports. Sgt Mullen-Hurst also forwarded to Inspector Sutcliffe emails from the claimant at the Inspector's request.

86. On 9 July 2014, Sgt Prest sent a further email to the claimant about the motorbike incident. As previously noted, she made no reference in this email to the claimant's email of 7 July in reply to her email of 30 June. This may be because Sgt Prest had overlooked it, although, as previously noted, she annotated it when preparing a response to the claimant's grievance, to indicate that the claimant had missed the points she had raised, so it could be that she had read it but still felt a further chasing email to be required. This email is marked urgent. Sgt Prest wrote that she had first sent the claimant an email regarding this on 30 June, nothing was

written on the fwin "and it is still outstanding it is now the 9th of July….!" The claimant had been on leave at the time of the original email, returning to work on 6 July. Sgt Prest's email does not acknowledge that the claimant had been on leave for most of the time since 30 June. Sgt Prest wrote that the fwin needed to be addressed immediately due to the time which had now elapsed. She wrote that the matter could not be closed "as it appears to me that there are potential offences that have not been explored and a line of enquiry." She wrote that the claimant needed to approach Ken regarding the fwin and get it sorted. She wrote: "Please sit down with Ken and discuss what you did and discuss what NOW needs to be done." We find that Sgt Prest wrote this email because there were still things which needed to be done in relation to the motorbike incident and the claimant had not, since his return from leave, done what he had been asked to do in Sgt Prest's email of 30 June.

87. On 12 July 2014, the claimant sent a 2.5 page email to Sgt Prest in reply to her email of 9 July, copying this to Inspector Kinrade. The claimant reminded Sgt Prest that he had sent a reply to her email of 30 June on 7 July, without recognising that his email of 7 July had not addressed the points Sgt Prest had raised on 30 June and had not taken the action she had requested. The claimant prefaced a description of the events of 25 June (the night of the motorbike incident) with a reminder to "think and act as one team and one family – which means, encouraging and supporting one another in all we do; inspiring and developing one another; speaking positively and respectfully to one another; changing an attitude of fault finding, blame and negative criticisms; striving to work together for the success of everyone and the provision of excellent customer services to the public who pay our wages." The claimant commented that Sgt Prest, in her email of 30 June, asked him to do things which were "irrelevant". He made the point that the email of 30 June had been sent when he was on annual leave. The claimant wrote:

> "Given the sequence of this incident Log, the content of your email is rather devaluing my capability to read and understand things, and I find it patronising – asking me to sit down with Ken to talk through etc. There is nothing to go through, there is no need to go through such trivial things."

88. The claimant concluded his email with a lengthy section entitled: "The importance of keeping team spirit". This included encouragement to Sgt Prest to "have an expectation of me, as a person capable of fulfilling my public duties as part of the team. I want to respectfully point out the importance of building and keeping team spirit. A repeated flow of irrelevant and unnecessary negative criticisms towards a member of staff results in discouragement, demoralisation, worries etc. And these negativities impair creative thinking, disable effective fulfilment of duties, and result in failures to fulfil our Objectives." The claimant commented: "It is equally important to remember that being a new member of staff at GMP does not mean that one is unable to think; nor does it mean being new to work and life."

89. The claimant complained in the email about being refused a visit to the COMMS office and from being stopped from attending the crime reduction training. He referred to not having a reply to emails requesting that he be allowed to start independent patrol.

90. The claimant concluded:

> "In the end, I would like to politely ask you, while I respect you as my sergeant, I would like to ask you to communicate with me respectfully, as a colleague who is capable of understanding information and fulfilling his duties. I ask you to do this consistently at all times. Speaking favourably to some officers and having no confidence in me as an employee, would not help us to have a good working relationship."

91. The claimant relies on this email as a protected act for the purposes of complaints of victimisation. There is no express reference to unlawful discrimination in this email and we find that there is nothing which could reasonably be understood as making a complaint of unlawful discrimination. There is a suggestion in what the claimant has written that he considers Sgt Prest is treating other officers more favourably than him, but there is nothing in what he wrote which would lead a reader to understand that he was alleging that the difference in treatment was due to race.

92. Sgt Prest forwarded this email the following day to Sgt Mullen-Hurst and Sgt Gareth Davies. She wrote that she was forwarding this "so that you are aware of the current situation with Tegegn and may I ask that if you have any dealings with him that you fully document them. Due to the below and his clear misunderstanding and recall of situation's [sic] document your actions please."

93. On 17 July 2014, a youth threw a bottle at the claimant whilst he was on cycle patrol. He was not hit. The claimant says that he was talking about his patrol with one of the evening shift officers when PCSO Orla Lynch overheard the conversation. The claimant gave evidence that, when he went into the parade room, officers asked him about the "assault". He wrote in his witness statement: "They didn't have interest in me in the past, and now they were talking about an 'assault' on me, as though they cared. They stressed me out by their questioning."

94. The claimant alleges that, on 19 July 2014, he gave his PDP to Sgt Prest but she did not review it and sign off any of the completed sheets. He alleges in his witness statement that he had been asking Sgt Prest to look at his PDP stage by stage but she had "resisted" his requests, arguing that the PDP was not complete. Sgt Prest gave evidence that she had been asking to look at the claimant's PDP and had never been given it.

95. On 30 May 2014, Sgt Prest had emailed a trainer at Sedgley Park, asking how new PCSOs are assessed as being fit for independent patrol. She wrote that, when she had asked her PCSO (the claimant) what happens now he had completed 10 weeks "he doesn't know and states there is nothing in his PDP for my [sic] to sign as Competent??" This suggests that, by 30 May, the claimant had not shown Sgt Prest his PDP and would be more consistent with Sgt Prest having asked to see the PDP than the claimant trying to show it to her and being refused.

96. In the claimant's email to Sgt Prest of 12 July, he complained about various things Sgt Prest had done, but he did not refer to her refusing to see and sign off parts of his PDP. There is no mention of this in the claimant's grievance letter to Inspector Kinrade of 22 July 2014. There is no contemporaneous note to support the claimant's evidence that he gave his PDP to Sgt Prest on 19 July. There is no entry to this effect in his pocket note book or other contemporaneous note. The claimant has given no explanation as to how he has apparently recalled in his witness statement that he gave his PDP to Sgt Prest on 19 July 2014, nearly 4 years prior to

writing his statement. We are doubtful that the claimant could remember this with accuracy so long after the event without any contemporaneous note to refer to. We also note that, in an email dated 20 October 2014 to Chief Inspector Nawaz, who was dealing with the claimant's grievance, the claimant wrote about his PDP: "I had been requesting Sgt Prest to have a look at it and there had been delays. Finally I handed it to her on the 19th August." According to the evidence of Sgt Mullen-Hurst, Sgt Prest was seconded to LGBT Network events for two weeks prior to the Pride Parade on 23 August 2014. She was then covering the NATO summit in North Wales from 30 August to 6 September 2014. Sgt Mullen-Hurst managed staff on L relief, including the claimant, during Sgt Prest's absence.

97. In the normal course of PCSO training, there should have been an initial review completed two weeks prior to the end of the six month probationary period. The PDP notes that this would decide whether progress is satisfactory or whether developmental needs dictate an extension to their probation. It also states "Agreement of action plans". There is a form in the PDP for the initial review. Clearly, it is contemplated that the supervising officer would review the PDP at this stage. The initial review for the claimant should have taken place around 6 July 2014. It did not.

98. In an email to the claimant dated 4 September 2014, Sgt Swindells wrote, following a discussion with the claimant: "I have also emailed PS Prest to get the PDP back from her." We find, on the basis of this email, that the claimant had told Sgt Swindells that he had given Sgt Prest his PDP. Sgt Swindells subsequently got the claimant's PDP and signed off some sections. Sgt Swindells did not recall whether he got the PDP from Sgt Prest or someone else.

99. We note that we were not shown any review sheets completed by the claimant; he was required to complete these prior to the initial review. The only parts completed by the claimant which we have seen are some activity sheets.

100. We find, on a balance of probabilities, that the claimant did not give Sgt Prest his PDP on 19 July. We find that the claimant had not been asking Sgt Prest to look at the parts of the PDP which he had completed and was having his requests refused, prior to this date. Based on Sgt Swindells' email, we find that the claimant believed he had left his PDP for Sgt Prest to look at, some time before 4 September. On the basis of the claimant's email to Chief Inspector Nawaz this was more likely to have been in August than July. The date the claimant told Chief Inspector Nawaz he had given it to Sgt Prest was 19 August, at a time when Sgt Prest was seconded to LGBT Network events. It is possible that the claimant left it on her desk at a time when Sgt Prest was not there and she never became aware of it.

101. On 19 July 2014, the claimant was on duty at a Carnival Festival at Platt Fields. Whilst he was on duty, PCSO Orla Lynch, PTP'd the claimant (point to point radio contact), asking him questions including about where he was born and his age. The claimant asked her why she was asking these questions and she said she needed to put a crime in for the "assault" that had happened to the claimant. The claimant wrote in his witness statement that Orla and the others were simply making an issue out of the incident and excessively exaggerated the issue of the youth. He wrote: "The stress I had from officers including PCSO Orla Lynch was totally disgusting." We accept the evidence of Orla Lynch that she was concerned for the claimant's welfare and the potential risk to the welfare of other officers. We accept

that her view was that the assault was not only an attack on the claimant personally but an attack on GMP as an organisation. If there was a member of the public throwing bottles then that person needed to be stopped in order to protect all officers. PCSO Orla Lynch did not recall making the crime report but said that, if she did, this would have been on instructions from Sgt Prest or Sgt Mullen-Hurst. We accept her evidence that, in order to produce a crime report, the victim's date of birth and place of birth is a mandatory requirement. We find that throwing a bottle at a PCSO was obviously an attempted assault and a crime. We find that there was nothing unusual or wrong in PCSO Orla Lynch completing a crime report about the incident and asking the claimant questions for this purpose. We find there was nothing unusual or wrong in PCSO Orla Lynch and other officers asking the claimant about the attempted assault and expressing concern about this.

102. The claimant was on rest days on Sunday 20 July to Tuesday 22 July 2014 inclusive. He began a period of sick leave on 23 July which continued until 30 July 2014.

103. On 22 July 2014, the claimant sent an email to Inspector Kinrade, asking to talk to him and expressing a grievance about Sgt Prest. He wrote that he had been finding "the climate of work back at the Station, difficult, namely, the attitude and leadership of Sergeant Prest." He wrote: "The stress, as a result of unhelpful environment and negative criticisms, has been overwhelming and has been causing me worries and lose [sic] of confidence. I feel I am being psychologically and emotionally bullied." He wrote that he had obtained a doctor's sick note for a week from 23 July, with stress-related absence. The claimant relies on this email as a protected act for his complaints of victimisation. We find there is nothing in this email which could reasonably be understood as making an allegation of unlawful race discrimination. The claimant went to Sedgley Park on 22 July, on his rest day, to write the email.

104. The note from the GP, dated 23 July, certified absence for one week with "stress at work".

105. Sgt Prest recorded the reason for the claimant's absence on the respondent's DMS system with the absence code of "psychological disorder". As noted above, the claimant's fit note recorded the reason for absence as "work-related stress". Sgt Prest was required to choose from a drop down menu to record the code for absence. The system uses the Dorset 12 categories, which the Home Office requires police forces to use to report absence, allowing national comparisons to be made. "Psychological disorder" was the closest category to work-related stress.

106. Inspector Kinrade met the claimant on 23 July 2014. The claimant, in his pocket note book, records the fact of the meeting without any detail. The claimant made no other contemporaneous note. His witness statement was written without the benefit of a contemporaneous note nearly four years after the meeting. Inspector Kinrade made contemporaneous notes of the meeting in his day book. To the extent that the evidence of the claimant and Inspector Kinrade differs about this meeting, we prefer the evidence of Inspector Kinrade. This is supported by the notes in the day book, although the notes are not a verbatim account. Inspector Kinrade accepts that he made a note of only some of many examples that the claimant gave. The claimant raised the matter of having wanted to go on independent patrol and getting no response from Sgt Prest. He spoke about the meeting on 3 June 2014, being told

that officers had gone to Sgt Prest saying that the claimant was not ready for independent patrol. The claimant said he feared that Sgt Prest had lost confidence in him. There is no note that the claimant raised an issue relating to his PDP. We accept Inspector Kinrade's evidence that he formed the view that examples provided by the claimant indicated that the claimant was not quite ready for independent patrol and he suggested that Sgt Prest may be correct in her assessment. The claimant and Inspector Kinrade agree that Inspector Kinrade referred to Sgt Prest as professional; it was Inspector Kinrade's view that Sgt Prest was a highly professional and capable sergeant. We find there was a discussion about whether the claimant understood instructions he was given. This was because Inspector Kinrade formed the view, from what the claimant was telling him, that there was a lack of understanding on the claimant's part. Inspector Kinrade accepts that he would have emphasised to the claimant the importance of the claimant listening to guidance and instructions from his supervisors. The claimant alleges that Inspector Kinrade did not listen to his concerns about Sgt Prest. It is clear from the notes made by Inspector Kinrade that he was listening to the claimant's concerns. It appears to us that the claimant confuses listening with agreeing with his viewpoint. On a number of occasions, including this one, the claimant accuses someone of not listening to him because they do not agree with him. A further example is when he accuses Paul Coburn of not listening to him. We find that Inspector Kinrade did listen to the claimant and took his concerns seriously. However, on the basis of what the claimant was telling him, he formed a view that the claimant was not quite ready for independent patrol. There is common ground that the claimant asked for a transfer to another relief. We accept Inspector Kinrade's evidence that he did not consider this was really an option as he felt that a part of the issue revolved around communication and a lack of understanding. He felt it might be better initially for the claimant to sit down with Sgt Prest and an Inspector to discuss the issues the claimant had raised. The claimant alleges that Inspector Kinrade said he would "carry a stigma" wherever he went in the police if he was transferred. Inspector Kinrade denies that he said this. The claimant has not satisfied us, on a balance of probabilities, that this phrase was used.

107. The claimant relies on what was said at this meeting as being a protected act for the purposes of his complaints of victimisation. The claimant has not identified specifically what he says should be understood as an allegation of unlawful discrimination. We find that there was nothing said at the meeting that could reasonably be understood as an allegation of unlawful discrimination. Even if we had accepted the claimant's evidence in its entirety about this meeting, we would have found that there was nothing said which could reasonably have been understood as an allegation of unlawful discrimination.

108. Inspector Kinrade was due to go on leave shortly after the meeting. He tried to arrange a meeting between the claimant and Sgt Prest with a mediator before he went on leave but the claimant said he was emotionally exhausted. Inspector Kinrade spoke to Chief Inspector McFarlane who said the meeting should take place while Inspector Kinrade was away. Inspector Kinrade, therefore, passed the matter to Inspector Sutcliffe to deal with. He wrote to Inspector Sutcliffe on 23 July, telling him about the situation and apologising for passing this to him. He wrote that the claimant had agreed to participate in a meeting between him, Inspector Sutcliffe and Sgt Prest. He wrote that the claimant "has a real issue with Jacqui, mixture of cultural and communications." He wrote that they needed to sit down and put their cards on

the table. He wrote: "Tucked in, with the, let's call it a personality clash are developmental issues, which may come to the fore, in the meeting."

109. Sgt Prest emailed Inspector Sutcliffe on 24 July 2014 to notify him that she was now on leave until 31 July.

110. The claimant returned to work on 31 July 2014. Sgt Mullen-Hurst conducted the return to work interview. She completed the standard return to work form. She recorded that the claimant had been absent due to stress at work, that he was unhappy with Sgt Prest and Inspector Kinrade had advised him that he would ask Inspector Sutcliffe and Sgt Prest to sit down together and resolve any issues. Sgt Mullen-Hurst noted that the claimant had felt quite emotional and depressed and recorded that she would complete a stress risk assessment and a referral to occupational health. She would speak to Inspector Sutcliffe "to look for resolution".

111. At the same meeting, Sgt Mullen-Hurst also completed a stress risk assessment with the claimant. In notes to the section on relationships at work, she recorded:

> "TB does not feel that PS Prest behaviour amounts to harassment – TB feels that the way PS Prest speaks to him is unpredictable; that one minute she speaks to TB normally and then the next time she speaks to him like a suspect; asking questions that are not relevant. For example, TB had issues with his radio and PS Prest asked him if he had used his emergency button. TB feels like PS Prest is emotionally bullying TB – as she asks lots of questions, rather than supporting TB with the issue he has gone to her with."

112. Sgt Mullen-Hurst recorded that she would speak to HR and Inspector Sutcliffe about emotional bullying as this would need a further meeting to document fully.

113. The claimant made no allegation of unlawful discrimination in this meeting.

114. Sgt Mullen-Hurst wrote to the claimant on 6 August 2014, confirming the outcome of their discussions on 31 July 2014. The claimant alleges that Sgt Mullen-Hurst wrote information that was not discussed in the interview and relies on his email to Sgt Mullen-Hurst of 11 August 2014 as identifying what was recorded which had not been said. However, we note that the claimant's email of 11 August 2014 does not say that the matters referred to in the letter of 6 August were not discussed, other than the part about the claimant's sickness absence being rated as "amber". Instead, the claimant's email was directed at giving a "context" to some of the points in the letter he had received. For example, in relation to the statement "We discussed that you need to work with others, not just by yourself", the claimant wrote: "To a reader who is not around during the time of utterance, this statement gives an impression that I had not worked with others and therefore needed an advice on the importance of working with others. This is not the case. The above statement in bold makes a sweeping generalisation and therefore needs to be corrected." We find that Sgt Mullen-Hurst's letter correctly reflects what had been discussed at the return to work interview. This includes a finding, on a balance of probabilities, that Sgt Mullen-Hurst spoke about requirements to improve and maintain his attendance to within the Force target and that his current sickness was rated "amber". This is reflecting the respondent's policy on sickness absence. If we are wrong in finding that Sgt Mullen-Hurst mentioned "amber" at the return to work interview, we find she included the

paragraph about this in her letter of 6 August 2014 because this was a standard section to be completed as appropriate and included in a letter following a return to work interview.

115. Also on 31 July 2014, Inspector Sutcliffe met with the claimant and spoke to him in the station yard for about 20 minutes. The claimant recorded the fact of the meeting in his pocket note book but no detail about what was said. The claimant took no contemporaneous note of what was said. Inspector Sutcliffe made a note of nearly 5 pages in his pocket note book on the day. We accept the evidence of Inspector Sutcliffe about this meeting, which is supported by entries in his pocket note book, and prefer this to the evidence of the claimant where their accounts diverge. Inspector Sutcliffe spoke to the claimant because he had been asked to address complaints the claimant had made whilst Inspector Kinrade was away.

116. Inspector Sutcliffe told the claimant that there were going to be people he wasn't going to get along with on occasions. He told the claimant that, as a public servant, he should expect to be questioned about matters, that supervisors had a duty to ask what he was doing and what he had achieved and that he, Inspector Sutcliffe, asked questions of his officers and his supervisors asked him questions. He told the claimant he could go to him if he had any issues, if he preferred to do this rather than going to his own supervisors. He asked the claimant to speak to him about any issues before deciding to pursue a grievance. At the end of the discussion, the claimant and Inspector Sutcliffe shook hands. The claimant said he felt much better and that he could have a fresh start. We reject the claimant's evidence that Inspector Sutcliffe trivialised the bullying and harassment the claimant was suffering from and that the claimant was, at the time, disappointed by not being listened to and dismissed. We find the meeting ended in the positive way Inspector Sutcliffe recorded in his pocket note book. The claimant relies on this meeting as a protected act. We find there was nothing said in this conversation which could reasonably be understood as making an allegation of unlawful discrimination.

117. The claimant alleges that, soon after the morning briefing on 1 August 2014, Sgt Prest approached him in the parade room and shouted at him, in front of others, about not having done various jobs, having let his opus page go red (which happened when a date for completion of a task had passed without the action being recorded as done) and did not let the claimant explain. Sgt Prest agrees that she approached him and spoke about a red Opus action but says that she did not raise her voice or speak angrily. The claimant wrote in his pocket note book for that day that an argument was started by Sgt Prest. He referred to a "nagging argument" from Sgt Prest. He wrote that she "jumped into what I was doing – reading OPUS and prioritising tasks, when she asked about how many surveys I had done – As she carried on nagging me my head was literally throbbing, banging headache, due to her – constant arguments and making me look like I am not doing the job or I don't know about the job. I had to beg her for a break. But she didn't leave me alone, she carried on changing her argument from one thing to another." He did not write that she raised her voice. The claimant also alleges in his witness statement that Sgt Prest slammed her fist down on the table as she walked away from him. Sgt Prest denies this. The claimant did not write about this in his pocket note book. The claimant alleges in the list of issues that Sgt Prest did not let him explain and gave evidence to this effect. However, the entry in his note book does not suggest that Sgt Prest did not let him say anything; indeed, the entry about "constant arguments" suggests some sort of dialogue and the entry alleging that she would not leave him

alone suggests that he did not want to answer her questions rather than Sgt Prest preventing him from saying what he wanted to say. We find, on a balance of probabilities, that Sgt Prest did not prevent the claimant from explaining.

118. We consider that, if Sgt Prest had shouted and slammed her fist on the table, the claimant would have recorded this in his pocket note book. He did not do so. We note that the claimant did make allegations of Sgt Prest shouting and slamming her fist down in his email written on 3 August 2014 but do not consider this carries as much weight as the more contemporaneous note. We prefer the evidence of Sgt Prest, which is supported by that of Sgt Mullen-Hurst, in finding that Sgt Prest did not shout at the claimant and did not slam her fist on the table. Sgt Prest's evidence is that, conscious of the complaints the claimant had already made about her, she wanted to make her conversation with the claimant as non-confrontational as possible. This is supported by an entry in her day book that she spoke as "softly" as she could.

119. The discussion resumed later in the sergeants' office. Sgt Mullen-Hurst made notes of the conversation. We accept these notes as an accurate summary of the meeting. The notes include that Sgt Prest explained that CCTV has a shelf life and that the claimant needed to look at crime actions and prioritise this. She told the claimant it was a learning experience. The claimant said that he had been directed to do something else so did not have the freedom to do his crime actions. Sgt Prest said that, if he had crime actions, he needed to discuss this with them and plan his route to incorporate the crime enquiries. The claimant said this was an argument. Sgt Prest said it was not an argument, it was a discussion. She said she had to ask questions as a supervisor.

120. The claimant alleges in his witness statement that Sgt Prest's behaviour towards him that day was "unprofessional, inhumane, malicious and racist". He does not explain, however, what leads him to the belief that her conduct was motivated, consciously or unconsciously, by race.

121. It was part of Sgt Prest's job to monitor OPUS actions and speak to officers when tasks had not been done within the required period. There is no evidence to suggest that Sgt Prest would not have approached any other officer with red actions to discuss what was happening.

122. On 1 August 2014, Inspector Sutcliffe met with Sgts Prest and Mullen-Hurst. Inspector Sutcliffe recounted to them the detail of his discussion with the claimant. The sergeants informed Inspector Sutcliffe of that morning's conversations with the claimant. A note taken by Sgt Mullen-Hurst records that Inspector Sutcliffe asked her to do taskings/action when possible in case this was a personality clash with Sgt Prest and this would establish that or if it was a performance issue. He asked that no official action plan be implemented immediately as the claimant had just returned from sick leave stating "work stress" and this would potentially further add to any stress and said they would review this after the next week.

123. In the afternoon of 1 August 2014, the claimant sent an email to Sgt Mullen-Hurst. He wrote that he had had a peaceful day the day before when Sgt Mullen-Hurst was in charge of him. He referred to Sgt Prest starting "nasty arguments with me and splitting hair again" and commented on Sgt Prest's lack of people management skills. He wrote that he was starting to think about possible solutions to

be away from this "nagging behaviour". He asked if it was possible for Sgt Mullen-Hurst or Sgt Davies to be his Sergeant rather than Sgt Prest.

124. As Inspector Sutcliffe was about to leave the office on 1 August 2014, the claimant asked to speak to him. Inspector Sutcliffe asked if the matter was urgent and the claimant said he would speak to him on Monday 4 August.

125. On 3 August 2014, the claimant sent an email to Sgt Prest which was more than 8 pages long. This went through events since 23 July 2014 and then gave Sgt Prest feedback on her style of management. He expressed unhappiness at her management style, writing that he did not have "a healthy, peaceful, free and democratic working environment" under her management. He wrote: "You do not have a collegial discussion with me but arguments, more arguments, and splitting hair, resistance and pecking my head." He wrote about being spoken to like a child. He wrote about the need to realise and give value to the advantages his previous life and work experiences gave him to fulfil his role. He set out points which he wrote would be helpful reminders about a professional, people-management style. He wrote that he feared having a nervous breakdown as a result of Sgt Prest's behaviour and mindset. He informed Sgt Prest that he had started pursuing a procedure for complaints and that he had requested being put under the charge of another sergeant.

126. Sgt Prest did not consider that the claimant had given an accurate account of events, as indicated by the handwritten annotations she later made on the letter.

127. On 4 August 2014, the claimant completed and gave to Inspector Sutcliffe a completed stage 2 formal grievance form. Inspector Sutcliffe was disappointed that the claimant had decided to put in a formal grievance without coming to him first, as Inspector Sutcliffe believed they had agreed when they met on 31 July 2014. The claimant told Inspector Sutcliffe that he had received advice from his trade union to lodge a formal grievance. The claimant said he had decided to raise a grievance instead of approaching Inspector Sutcliffe because he wanted to be supervised by someone else. Inspector Sutcliffe told him that if he wanted to change supervisors because he had been challenged on his work then changing supervisors would not change the situation. He told the claimant it was Sgt Prest's duty to bring any issues to his attention and make sure that he actioned tasks. He pointed out to the claimant that he would not know everything there was to know at this stage and that he should accept constructive feedback.

128. In the grievance form, the claimant complained, amongst other things, that Sgt Prest had been "psychologically and emotionally bullying me". The claimant relies on this form as a protected act for his complaints of victimisation. There is no reference to unlawful race discrimination in what the claimant wrote. We find there is nothing which could reasonably be understood as making an allegation of unlawful discrimination.

129. Inspector Sutcliffe sought advice from HR on how he should deal with the claimant's grievance. As he recorded in an email dated 10 August 2014 to Inspector Kinrade, he received advice that he could try again with the stage 1 resolution as some of the events the claimant mentioned were after his initial discussion. Inspector Sutcliffe followed this advice but later found out this advice was wrong. We find that it

was because of this advice from HR that Inspector Sutcliffe did not forward the grievance form to HR to deal with as a stage 2 grievance.

130. On 4 August 2014, Sgt Mullen-Hurst had a discussion with the claimant about an incident on 20 June 2014 where the claimant had come across a road traffic accident (RTA). The incident had been brought to Sgt Mullen-Hurst's attention on 1 August 2014 by Sgt Davies who had received an email dated 28 July 2014 from a PC about a s.18 assault which the PC had been allocated. The PC wrote that the claimant had come across this and no log nor police response had been called. The PC was asking for the claimant's pocket note book and a statement from him but had been told he was off sick at that time. Sgt Mullen-Hurst recorded her conversation with the claimant in her day book. She asked the claimant if he had attended an RTA before; the claimant said no. She asked if he knew what police had to do at an RTA; the claimant said no. Sgt Mullen-Hurst explained what needed to be done. Sgt Mullen-Hurst told the claimant that he must ask for officers to attend if there was an allegation of assault (as there was in this case). She advised the claimant that he needed to start using his radio more; that if he shouted up, he would be supported, but he needed to communicate this. We find, as recorded in Sgt Mullen-Hurst's notes, that the claimant agreed that he should have shouted up and got more patrols. We accept Sgt Mullen-Hurst's evidence that she considered the claimant's behaviour may have constituted misconduct, his conduct falling below acceptable levels, but she considered it more appropriate and proportionate to give him a supportive action plan due to his length of service.

131. Inspector Sutcliffe met with the claimant on 10 August 2014 to discuss the grievance. They discussed Sgt Prest's attitude towards the claimant. They spoke about how the claimant did not like to be spoken to by Sgt Prest about matters he was dealing with. Inspector Sutcliffe told the claimant that Sgt Prest had a right to question him about operational matters. Inspector Sutcliffe met with the claimant again later that day. He told him that he had spoken with Sgts Rowlands and Mullen-Hurst and both had said that Sgt Prest had acted appropriately. Inspector Sutcliffe told the claimant that he should not be contacting other supervisors to request a change of supervision. He told the claimant to come back to him if he had any further issues and he said he would do that.

132. The claimant alleges that Inspector Sutcliffe told him what other sergeants thought about the claimant. We find that Inspector Sutcliffe spoke about what other sergeants thought about Sgt Prest, rather than about the claimant. This is supported by the entry in the claimant's pocket note book. The claimant alleges that Inspector Sutcliffe said that he needed to "check my 'mannerisms'". Inspector Sutcliffe denies saying this but said he told the claimant to be aware of his own body language, the language he used and whether he could see he was escalating the situation. He says he asked the claimant to reflect on his interactions with people. The entry in the claimant's pocket note book records that Inspector Sutcliffe "wanted to tell me to reflect on my mannerisms". Although the claimant recorded this as a direct quote, it clearly is not, since it is not phrased in a way that would be said to the claimant. "Mannerisms" would be an unusual word to use and we consider it more likely than not that this precise word was not used but this was the claimant's understanding of what Inspector Sutcliffe said. We find, on a balance of probabilities, that Inspector Sutcliffe gave advice to the claimant to reflect on his own behaviour in interacting with others, in terms about which Inspector Sutcliffe has given evidence.

133. The claimant alleges that Inspector Sutcliffe did not listen to his concerns. We find that Inspector Sutcliffe did listen to the claimant's concerns and responded to these. Again, we find that the claimant is equating not agreeing with him with not listening to him. These are not the same things.

134. The claimant alleges that Inspector Sutcliffe defended Sgt Prest, saying that she was professional. Inspector Sutcliffe was not specifically asked about this. We consider it likely that he may have made this comment because he did consider her to be professional.

135. In the evening on 10 August 2014, Inspector Sutcliffe emailed Inspector Kinrade. He informed Inspector Kinrade that he had given the claimant a verbal response to his grievance and that it was now up to the claimant to fill in forms to take it to stage 2 if he wished to. Inspector Sutcliffe wrote that:

> "I have said that we are a disciplined organisation and that he must be prepared to accept feedback. Also that he cannot expect to know everything at his stage of service."

136. He wrote that he had told the claimant to speak to Sgt Prest about how he felt when Sgt Prest returned in two weeks and that the claimant seemed quite receptive to this. He wrote that he had also told the claimant that he does not choose who supervises him. He wrote that he did not deem the "clear the air" meeting to be a good idea due to current emotions. He wrote that Sgt Mullen-Hurst was going to monitor the claimant and set him an action plan and that the claimant was still "in company" as part of his stress risk assessment.

137. Inspector Sutcliffe considered that he had resolved the grievance, as is apparent from the email to Inspector Kinrade and an email he sent on 10 August 2014 to Sgts Prest and Mullen-Hurst. In the email to the Sergeants, Inspector Sutcliffe wrote that he had resolved the grievance by giving the claimant a verbal update after advice from HR. He wrote that the claimant had stated he would like to speak to Sgt Prest in a couple of weeks' time. He commented that the claimant seemed quite emotional and was on the verge of crying at times.

138. On 13 August 2014, Sgt Mullen-Hurst wrote to one of the trainers at Sedgley Park. She wrote that she was currently compiling an action plan for the claimant and asked for various things to be provided to assist her. She also asked if the trainer had a copy of the class plan for Diversity Awareness as "it has come to my attention that there was a discussion regarding people's views on gay marriage."

139. Although this email is not the subject of one of the complaints on which we are to adjudicate, the claimant, in his witness statement, alleges that the communication with Sedgley training centre "was a vindictive action taken behind my back because I complained about the racism, the bullying and harassment that I experienced at ESR." We have found that the claimant, at this stage, had not yet made an allegation of racism. Concerns about the claimant's performance pre-dated his allegations of bullying and harassment. We have found that concerns about the claimant's readiness for independent patrol had been raised as early as May 2014. The possibility of an action plan had been considered from an early stage. On 8 July 2014, Inspector Sutcliffe wrote: "continue with potential action plan in relation to other performance issues". The use of an action plan was delayed by Inspector

Sutcliffe after the claimant's return from sick leave because of concern that this could potentially further add to any stress. We find that the email of 13 August 2014 was not sent by Sgt Mullen-Hurst because of any allegations made by the claimant but because there were issues about the claimant's performance which his superior officers considered should be addressed by way of an action plan. The alleged discussion about gay marriage was raised because Sgt Mullen-Hurst was concerned about the possibility that the claimant held homophobic views and this could affect the performance of his duties, arising from reports made by two gay PCSOs to Sgt Prest some time in July.

140. We accept Sgt Mullen-Hurst's evidence that she did not know, as at 14 August 2014, that the claimant had attempted to submit a stage 2 grievance. She believed, having been notified to this effect by Inspector Sutcliffe, that a stage 1 grievance had been resolved. The claimant had not, by 14 August 2014, made a further attempt to submit a stage 2 grievance.

141. The claimant had arranged to collect CCTV footage from the Stockport Stagecoach bus depot on 14 August 2014. Before setting off, he self-briefed, although this was a day when PCSOs would normally be expected to attend the briefing. He did not tell Sgt Mullen-Hurst or any other sergeant why he was not attending the briefing or where he was going. When he was on the bus on the way to Stockport, Sgt Mullen-Hurst PTP'd him (point to point on the radio) to ask where he was. We accept the contemporaneous note made by Sgt Mullen-Hurst in her day book as being a more accurate account of the conversation than that of the claimant in his witness statement to the extent that they diverge. The claimant made no note of the details of the conversation in his pocket note book. The claimant told Sgt Mullen-Hurst that he was on the bus to Stockport to collect CCTV. Sgt Mullen-Hurst asked why he was not in the briefing. He told her that he had self-briefed, this was time critical and he had made an appointment to collect it. Sgt Mullen-Hurst told the claimant that it was completely unacceptable to go off without attending his briefing or telling his sergeant his location. She told him to get the CCTV and come back and that she needed to sit down to have a meeting with him. The claimant alleges that Sgt Mullen-Hurst told him to come straight back to the station although he did, in fact, collect the CCTV before returning to the station. We prefer the evidence of Sgt Mullen-Hurst, supported by the entry in her day book, that she told him to collect the CCTV then return to the station. The allegation in the list of issues alleges that Sgt Mullen-Hurst shouted at him when she PTP'd him. However, the claimant in his witness statement does not say that she shouted at him and it was not put to Sgt Mullen-Hurst in cross examination that she shouted at him. If it is alleged by the claimant that Sgt Mullen-Hurst shouted, we find, on a balance of probabilities, that she did not.

142. We accept that one of Sgt Mullen-Hurst's concerns was that the claimant was travelling to another division without having told a sergeant he was going off division. He was not, therefore, on the right radio channel for Stockport. If he needed assistance, this would delay officers reaching him as he would be transmitting information to the wrong radio channel. Also, he would not be aware of any information being given to the Stockport channel about incidents in that area.

143. When the claimant later returned to the station, over two hours later, Sgt Mullen-Hurst spoke to the claimant in the sergeants' office about what had happened. There was a further conversation later that evening between the claimant

and Sgt Mullen-Hurst and then also Inspector Kinrade. The claimant made notes about the conversations in his pocket note book shortly after the conversations. Sgt Mullen-Hurst made notes in her day book shortly after the conversations. The note taken by Sgt Mullen-Hurst is more detailed. Except where indicated below, the claimant's contemporaneous note is not inconsistent with the note taken by Sgt Mullen-Hurst. We accept Sgt Mullen-Hurst's note as being an accurate summary of the discussions.

144. Sgt Mullen-Hurst asked the claimant why he was not at the briefing. The claimant said he had self-briefed as per an email he had received. The email the claimant was referring to was sent by Sgt Brown on 29 June 2014 and stated that PCSOs did not have to attend afternoon briefings on Mondays, Tuesdays or Wednesdays or mid-shift briefings on Wednesdays, Thursdays and Fridays. This was because, on these days, PCSOs did not work exactly the same hours as police officers on the same relief. 14 August 2014 was a Thursday and L relief were on a late shift so the email did not apply. Sgt Mullen-Hurst explained to the claimant that he was required to go to briefing when they all started at the same time and they had all started at 3 p.m. that day. Sgt Mullen-Hurst asked the claimant if he understood that she had not known where he was and that he should have told her. The claimant asked whether he had to speak to her every time he went out. She said no, but he needed to tell a sergeant if he was not going to be in a briefing.

145. The order of events then diverges in the two sets of notes. There is common ground that the claimant asked if this was a meeting and said that he wanted a union representative present. Sgt Mullen-Hurst told the claimant that he needed to be "in company" with someone. The claimant asked why and Sgt Mullen-Hurst said this was because she was his sergeant and had told him so and it was in his job description. We consider it more likely than not that the discussion occurred in the order recorded by Sgt Mullen-Hurst since this makes more logical sense and is more consistent with later events, when Sgt Mullen-Hurst was delaying a discussion with the claimant about performance to try to allow the claimant to be accompanied by a trade union representative. We find that the claimant said he wanted someone with him before Sgt Mullen-Hurst gave him the instruction that he had to go out in company. Sgt Mullen-Hurst told the claimant that he did not need someone with him because she just wanted to discuss some performance matters informally. The claimant said he would not speak to Sgt Mullen-Hurst unless he had a representative in the meeting because he felt targeted. The claimant said he wanted to bring a trade union representative. Sgt Mullen-Hurst agreed but then instructed him to go out "in company" until they had had the meeting.

146. There is common ground in the notes that the claimant then said he would go and deal with the CCTV. The claimant's notes record that he said he did not know how long it would take him and Sgt Mullen-Hurst told him he could have his refreshment break. This is consistent with Sgt Mullen-Hurst's note that he would have his refreshment break/book in the CCTV and come back to her. Both sets of notes are, therefore, consistent with Sgt Mullen-Hurst's evidence that she was waiting for the claimant to come back to her after having his break and dealing with the CCTV rather than the assertion in the list of issues that the claimant was kept in the station for more than five hours doing nothing and the claimant's witness statement which states that Sgt Mullen-Hurst told him to go on his refreshment break and stay in the station, without referring to him having said he would deal with the CCTV. Sgt Mullen-Hurst did not put a time in her notes as to the end of this

conversation. The claimant recorded "ref" at 19.40 but it is not clear whether that was the time the conversation ended. Both sets of notes timed the conversation as starting at 18.40. It seems unlikely, from the accounts of the meeting, that it took as long as an hour.

147. A note made by the claimant when on refreshment break is, however, evidence of his perception of events and state of mind at the time. He wrote: "I feel I am in police detention, like a criminal, not employed as a PCSO by GMP." He wrote that he had no confidence in some GMP leadership. He wrote: "I could have been out there in street, making a difference."

148. It is common ground that Sgt Mullen-Hurst approached the claimant around 10.30 p.m. We accept Sgt Mullen-Hurst's evidence, supported by the note in her day book, that she was expecting the claimant to come back to her after having his break and dealing with the CCTV and approached him when he had not done so. There had been nearly three hours, at least, since they had last spoken. It is common ground that Sgt Mullen-Hurst asked if the claimant had finished the CCTV and then told him to go out with PCSO Chee Chan. Neither set of notes records a discussion about where PCSO Chan was patrolling. We accept that he was patrolling on his own on a nearby beat, a few minutes' walk from the station, which was a burglary hot spot. We accept Sgt Mullen-Hurst's evidence that it is standard practice to send PCSOs out every evening, in pairs if possible, for their own personal safety, to patrol high burglary areas as a deterrent. It appears from the claimant's note that he assumed that he was being asked to go to Chorlton to patrol, which would have required him to wait for a bus to get there and back, and he would normally have been heading back to the station at 23.00. The claimant refused to go out on patrol with PCSO Chan. The claimant asked to speak to Inspector Kinrade because he was unhappy about the order he was being given.

149. The claimant and Sgt Mullen-Hurst went into Inspector Kinrade's office. The claimant remained standing. We accept the evidence of Sgt Mullen-Hurst and Inspector Kinrade that the claimant was offered a seat but declined this. Sgt Mullen-Hurst did not make a note of all the conversation. We accept the recollection of Sgt Mullen-Hurst and Inspector Kinrade that the claimant would not look at Inspector Kinrade. As noted by Chief Superintendent Nawaz, not making eye contact can, in some cultures and situations, be a sign of respect. However, the claimant never told Chief Superintendent Nawaz that his failure to make eye contact in some of the conversations with his superior officers was due to this reason. At this hearing, the claimant asserted that he had never failed to make eye contact as appropriate and did not argue that any failure to make eye contact was because of a lack of respect. The evidence of Sgt Mullen-Hurst and Inspector Kinrade that the claimant did not make eye contact in this meeting is consistent with other later occasions when we find that the claimant refused to make eye contact and engage with other officers.

150. The claimant questioned the order to go out with PCSO Chan. He expressed unhappiness about being required to go out "in company" and asked for an explanation. Inspector Kinrade told the claimant that he had to obey an order from a sergeant. We find, based on the claimant's note, that Sgt Mullen-Hurst and Inspector Kinrade asked the claimant whether he understood instructions and asked whether the claimant was listening to them. We find that both were trying to impress on the claimant that, if a sergeant gave him a lawful order, he needed to follow it. The claimant alleges in the list of issues and his witness statement that Inspector Kinrade

put his finger to his temple when asking repeatedly whether the claimant understood instructions and said "Go and ask your wife to explain to you." In the list of issues, but not in his witness statement, the claimant alleges that Inspector Kinrade raised his voice to the claimant. Inspector Kinrade denies that he put his finger to his temple, told the claimant to get his wife to explain it to him or raised his voice. The claimant's contemporaneous note does not allege that Inspector Kinrade put his finger to his temple or shouted at the claimant. We find, on a balance of probabilities, that the Inspector did neither of these things. The claimant's contemporaneous note records Inspector Kinrade as saying "talk to your wife", not "go and ask your wife to explain to you." We note that, in the letter the claimant wrote to Chief Superintendent Hankinson on 8 September 2014, he alleged that Inspector Kinrade had said "Tell your wife to speak to you!" which is a change to what he had recorded in his pocket note book but also not the final version which appears in the witness statement and the list of complaints. We consider that the contemporaneous note is more likely to be accurate than later versions. We find, based on the claimant's contemporaneous notes, that Inspector Kinrade made some reference to the claimant talking to his wife, but that he did not tell the claimant to get his wife to explain things to him. We consider that the claimant has put a gloss on what was said over time, whether knowingly or not.

151. We find, based on the note which Sgt Mullen-Hurst made and the claimant's note, that Sgt Mullen-Hurst told the claimant that she needed to have an informal meeting with him regarding his performance and to discuss a supportive action plan to aid his development within GMP as a PCSO. The claimant disagreed that there were developmental issues and said he did not want to go to a meeting without a trade union representative. Sgt Mullen-Hurst agreed that he could have a representative present. She said that part of the action plan was that he would go out "in company" with a tutor so, when he came to work, he needed to speak to her or another sergeant to find out who to go out with. Inspector Kinrade told the claimant to go back to the office and finish any administrative tasks until the end of his tour of duty, which was midnight.

152. At 23.41 that evening, Sgt Mullen-Hurst sent an email to the claimant, copied to Inspectors Kinrade and Sutcliffe and HR. She wrote:

> "I would like to have a meeting with you regarding some performance matters. This is an informal way to discuss looking at a supportive action plan to aid your development as a PCSO within GMP.
>
> This is an informal meeting that intends to support you. It is normal practice for supervisors to discuss staff performance with their staff on an informal basis and resolve any issues informally by looking at different ways to support different needs. I intended to have this meeting with you today.
>
> However, you have informed me that you would like a Unison Representative present during this meeting, which I welcome.
>
> It is Friday tomorrow and the Unison Representative may not be available at such short notice. I am leave this weekend. So can we meet on Wednesday 20th August at 14.00 hours at ESR. Please contact your Unison Rep to see if they are free and let them know to contact me if it is not convenient for them so we can re-arrange."

153. We find that Sgt Mullen-Hurst sent this email because she genuinely considered that there were performance issues which needed to be addressed with the claimant. She had been asked by Inspector Sutcliffe to deal with these matters. The claimant has alleged collusion by Sgt Prest in sending this email. We find that Sgt Prest had no involvement in drafting or sending this email.

154. On 14 August 2014, Sgt Mullen-Hurst recorded in her day book reasons for delay in implementing an action plan. She wrote that the claimant would have received one prior to going off sick and then, on his return, Inspector Sutcliffe decided to delay it so as not to make the claimant's stress worse at the point of his return. She wrote that, now his grievance had been resolved and it was two weeks since his return, the action plan must be discussed. She referred to "inappropriate wording" and tone of emails criticising his supervisor, that the sergeant had twice requested that the log regarding a public order offence was crimed and the claimant had made the comment that this was "trivial and patronising."

155. It appears that Sgt Mullen-Hurst may have prepared an action plan, by 14 August 2014, intending to discuss this with the claimant on that day. However, she was not able to do so due to the claimant's refusal to discuss matters with her without a trade union representative present.

156. On 15 August 2014, Sgt Prest emailed someone at the training school, copying this to Sgt Mullen-Hurst. She wrote that she knew that Sgt Mullen-Hurst had been trying to contact the training school and this was becoming a matter of urgency. Sgt Prest recorded what she had been told about a classroom discussion when the claimant was alleged to have been vocal against gay marriage, quoting the bible. She wrote that a number of those on the course are gay officers and that they were shocked at the claimant's viewpoint and that there was no challenge. She wrote:

> "I believe one of the officers themselves challenged him but it was just left at that and they felt that this was probably due to an earlier issue regarding the same PCSO and an allegation of racism and that this dragged on and on and caused quite a lot of class disruption."

157. She asked what, from the training officers' side, happened and what if anything about this viewpoint was challenged.

158. On 15 August 2014, Sgt Mullen-Hurst had a conversation with the claimant which she recorded in her day book. The claimant said that he felt demoralised as he could not go out by himself and did not know why. Sgt Mullen-Hurst explained that there were a number of incidents that she needed to discuss with him about his performance which would explain her rationale for putting him in company with an experienced person to help him develop. The claimant asked if he had done something wrong. Sgt Mullen-Hurst said it was not about being wrong and being punished but sitting down to discuss things and seeing how to make things better and one of those things was to have a tutor for some time to help develop him. She said that she respected his request to have a representative present and, as such, could not explain the reasons why she had decided to put him in company if he was not prepared to meet with her to discuss the reasons. The claimant said he felt he needed a representative present in every meeting because of the way Sgt Prest had treated him in the past. Sgt Mullen-Hurst explained that, if she had decided that he needed to be in company, this needed to be immediately. She could not wait for the

meeting because, if she let him go out independently before the meeting and something bad happened to him, then she would get in trouble because she had not protected him. Sgt Mullen-Hurst recorded that she thought the claimant understood this.

159. On 15 August 2014, Sgt Mullen-Hurst sent an email to INPT supervisors to inform them that the claimant had been told he was not to go out on independent patrol until the review period was looked at and to ask them to ensure that, if the claimant was due to start before or due to finish after herself or Sgt Davies' tour of duty, that the claimant was directed accordingly. She informed them that, due to concerns over performance and actions taken/not taken at incidents, she had been due to meet the claimant about a supportive action plan the previous day but the claimant had refused to meet to discuss the performance issues without a Unison representative present. She wrote that part of the action plan was to place the claimant with a suitable tutor, such as an experienced PCSO or PC, for a reviewable period of 5 weeks.

160. In the evening of 16 August 2014, the claimant submitted a stage 2 grievance to HR. The claimant wrote in his covering email that he had submitted it via Inspector Sutcliffe on 4 August 2014 but later learnt that it had not been passed on. The form attached was not, however, the same one given to Inspector Sutcliffe. The form attached to the email was dated 16 August 2014 and contained much more detail than the form given to Inspector Sutcliffe. The claimant wrote in his covering email that there was more information that he would have liked to add but the form did not allow him to do so.

161. The claimant made complaints about Sgt Prest, Inspector Kinrade and Inspector Sutcliffe. He complained, in particular, about what he considered to be Sgt Prest's lack of people management skills. He wrote that "All officers must have a sincere confidence and trust in me, and take me as a capable individual." He wrote that the role of a PCSO is not "rocket science"; a statement which he subsequently repeated in other correspondence. The claimant referred to the requirement to be "in company" again and that Sgt Mullen-Hurst had told him he had "developmental issue" that she wanted to deal with. He wrote: "I do not agree with any of this. It's just a smoke screen. It came at a time when I have been complaining about Sgt and at a time when I have not been happy with Inspectors judgment."

162. The claimant relies on the grievance dated 16 August 2014 as a protected act for the purposes of complaints of victimisation. The grievance does not make any express allegation of unlawful discrimination. We find that it could not reasonably be understood as making any allegation of unlawful discrimination.

163. On 18 August 2014, Sgt Smith from Sedgley Park Training Centre emailed Sgts Mullen-Hurst and Prest. He wrote that one of the trainers recalled the incident described as an allegation of racism but neither of the trainers recalled anything regarding the homophobic issues they had mentioned. He wrote that they were looking into the possibility that there was a guest speaker delivering the diversity session.

164. On 15 August 2014, the claimant wrote a lengthy email to Sgt Mullen-Hurst in response to her email of 14 August. Sgt Mullen-Hurst accepts that she received and read this email. It appears from the email heading on the copy annotated by Sgt

Mullen-Hurst that this was not sent to her until the afternoon of 19 August 2014. The claimant challenged that there was any "performance matter" saying, amongst other things, that he had never heard anything about a performance matter from Sgt Prest, who was his line manager. The claimant alleged that he had been "picked on and bullied from day one" at ESR. He did not allege this was due to race discrimination. He alleged that this "performance matter" was just a smoke screen. He challenged the decision to put him back "in company".

165. On, or shortly before, 19 August 2014, Inspector Kinrade spoke to Chief Inspector Stephen McFarlane about the claimant's request to be moved to a different team. It was agreed that the claimant would move from L relief to J relief, initially under the supervision of Sgt Steve Swindells, to provide the claimant with a fresh start. It was also agreed that the claimant would be subject to a three month development plan, devised to support and develop the claimant so that he could safely and effectively commence independent patrol. Inspector Kinrade sent an email to Sgt Mullen-Hurst on 19 August 2014 referring to his discussion with Chief Inspector McFarlane and asking Sgt Mullen-Hurst to put together an action plan. He wrote that Chief Inspector McFarlane wanted the claimant to be placed on another team for 3 months, ultimately returning to L relief.

166. Sgt Mullen-Hurst was solely responsible for drafting the plan. Inspector Kinrade was mistaken in his witness statement in believing Sgt Swindells to have participated in the drafting. Sgt Prest provided Sgt Mullen-Hurst with some information to assist her in drawing up the proposed action plan. Inspector Kinrade reviewed the plan and was satisfied that it was fair, achievable, time bound and relevant, with its ultimate aim being to prepare the claimant for independent patrol.

167. In the outcome letter to the claimant's stage 3 grievance, Chief Superintendent Mary Doyle wrote that "Any 'Development Plan' should be based on consultation and collaboration with the individual concerned rather than it being a one-sided activity." However, she noted attempts made by Sgt Prest, Sgt Mullen-Hurst and Inspector Kinrade to discuss the claimant's performance and development with him. We find that Sgt Mullen-Hurst drew up the plan, without input from the claimant because of the difficulty in trying to have a discussion with the claimant about this, which he refused to do without a representative present.

168. On 20 August 2014, Sgt Mullen-Hurst spoke to the claimant and asked if he had managed to get a representative to attend for the meeting at 2 p.m. The claimant said he was still waiting for a call but there was someone who would be back the following week if they could have the meeting then. Sgt Mullen-Hurst spoke to Chief Inspector McFarlane who told her to inform the claimant that it was a lawful order to sit down with her and Sgt Swindles to discuss the action plan. Chief Inspector McFarlane said to tell the claimant that the action plan would be given that day and, by all means, it could be revisited at a later date with Unison. At 19.12, Sgt Mullen-Hurst spoke to the claimant on the radio and asked him to come back to the station. She said she had spoken to Chief Inspector McFarlane regarding his request to move groups and she needed to speak to him about this. It appears from the note of this conversation that Sgt Mullen-Hurst did not tell the claimant that they were going to have the meeting about the action plan when he returned to the station.

169. At 20.00 on 20 August 2014, Sgts Mullen-Hurst and Swindells met with the claimant. Sgt Mullen-Hurst went through notes which she had prepared for the

meeting. She later gave the claimant a copy of these notes at his request. Sgt Mullen-Hurst told the claimant that CI McFarlane and Inspector Kinrade had agreed to give the claimant a temporary move to J relief for 3 months. She informed him that CI McFarlane had advised that they could not wait until the following week for a Unison representative to explain the reasons behind the supportive action plan so the claimant had to sit down with her and Sgt Swindells. She said this was informal and did not form any formal action under the Standards, Performance and Attendance Policy. She informed the claimant that he could then have another meeting with the Unison representative present when they returned from leave if the claimant wanted. Sgt Mullen-Hurst then went through 8 matters which had caused concern. Some of these matters were ones which had been raised with the claimant previously e.g. the RTA. The claimant argued against points made by Sgt Mullen-Hurst. The claimant recorded that he refuted the points but was told that time did not permit. Sgt Mullen-Hurst gave evidence that the claimant wanted to go into great detail about each point she raised. We consider it quite possible that the claimant was stopped from saying as much as he would have liked to have said, due to time constraints (the claimant's tour of duty being due to end at 21.00). There was some dispute about the length of the meeting but we consider Sgt Swindells was mistaken in his recollection of it being only 10-20 minutes. Having regard to the material which they went through and the times recorded by the claimant and Sgt Mullen-Hurst, we consider the meeting was likely to have been around an hour in length and, at most, an hour and a half. Sgt Mullen-Hurst took the claimant through the action plan and invited him to sign it. The claimant refused to sign the plan although Sgt Mullen-Hurst understood that he intended to sign it the following day. Sgt Mullen-Hurst and Sgt Swindells signed the plan. The claimant never signed it.

170. Although the claimant argued throughout internal processes at GMP and continued to argue at this employment tribunal hearing that there was no substance to the performance concerns, we are satisfied from the documentary material we have seen and the evidence of the witnesses that Sgt Mullen-Hurst and others had genuine concerns that there were developmental issues, illustrated by these matters, which needed to be addressed. One clear example, where the issues can be seen from the summary in Sgt Mullen-Hurst's notes alone, is the incident (number 8 in her notes) where the claimant found a confused female and returned her to her home by himself. Sgt Mullen-Hurst noted that she appreciated his care and compassion but said that he should have reported this on the radio to check she was not a missing person, to ensure someone could assist the claimant to return her home (to prevent any allegations) and done a 1-8 vulnerable write up. It is obvious that a male PCSO on his own, taking a confused woman back to her own home, could potentially become the subject of allegations which would be difficult to refute without another officer there as a witness. The claimant seemed completely oblivious to this basic safeguarding issue.

171. It appears to us that the claimant underestimated the role of a PCSO. We have already referred to his description in the grievance of 16 August 2014 of the role not being "rocket science". The claimant repeated this description in his witness statement. He wrote: "What part of PCSO's role is so difficult for a man who has a university level education? A teenager with no much life experience can work as a PCSO. The role of a PCSO was simply a common sense, not a 'rocket science'". It appears to us that the claimant did not have a proper appreciation of what he might not know, not all of which would be simply common sense e.g. the sort of steps which could and should be taken when coming across a RTA or the sort of leads

which should be recognised and followed up in the motorbike incident. It appears to us that the claimant, whilst continually asserting his willingness to learn, was, in fact, resistant to the suggestion that there was anything he could learn and improve upon arising from incidents he had encountered on duty.

172. The claimant accuses Sgt Mullen-Hurst and Sgt Swindells of lying in the meeting on 20 August 2014 by making false accusations against him. We reject that allegation. We find that Sgt Mullen-Hurst and Sgt Swindells were raising concerns because they genuinely believed that the incidents raised by Sgt Mullen-Hurst demonstrated that there were areas in which the claimant needed help to learn and improve his performance before he could be considered competent for independent patrol.

173. The claimant describes the action plan as "Police Racist Tool". He describes the 8 matters referred to by Sgt Mullen-Hurst as "Basis for the Police Racist Tool". He asserts in his witness statement that "racist and abusive officers who refused to investigate my grievances" used the action plan "to insult me, punish me, to portray a negative image about me, to discredit me and to create smokescreen so they could evade any discussion or investigation of the core of the problem – racism."

174. The PDP for PCSOs contains a section on action plans. This describes them as follows:

> "Action plans are the means by which a developmental need can be highlighted and addressed. It could be that you have not completed certain tasks, or that having attempted a particular task or tasks, it is considered by yourself, Neighbourhood Beat Officer or line manager that further development is required. Whatever the developmental need might be an Action Plan should be drawn up and implemented."

175. We accept the evidence we have heard from various of the respondent witnesses about their use of action plans. For example, Sgt Prest gave evidence about frequently making use of this tool. We find that actions plans were normal and frequently used developmental tools.

176. We find that Sgt Mullen-Hurst and Inspector Kinrade and CI McFarlane, who instructed Sgt Mullen-Hurst to proceed with an action plan, all acted as they did because they genuinely considered that the claimant had developmental needs which needed to be addressed. Ideally, these needs would be discussed and agreed between the subject of the action plan and their superior officers but, in this situation, it was clear that the claimant was not accepting that there were any performance issues. At the time the action plan was contemplated and drawn up, the claimant had not made any allegations of race discrimination. We find that the plan was not a "smokescreen" to evade any discussion or investigation of racism. The plan was drawn up because the claimant's superior officers genuinely considered there were developmental issues to be addressed.

177. The claimant's contemporaneous note of the meeting records that the claimant was told that his complaint about Sgt Prest was being investigated separately. As previously noted, the complaint about Sgt Prest had not been identified at this stage as being a complaint of race discrimination. It was clear from the claimant's note that the action plan was not going to prevent investigation of his

grievance. As we note later, the allegation of race discrimination was made at a later stage in the investigation process.

178. It was later alleged, in correspondence by the claimant's trade union representative, Mr Armitage, that going ahead with the meeting without the claimant having a trade union representative present, was in breach of an agreement between GMP and Unison. We have not been shown any document to this effect. We noted that a union recognition agreement was included in the bundles of documents, although neither party referred specifically to it. This provides for a right of representation in disciplinary and grievance meetings but we could not find anything which provided for representation at the type of meeting which the claimant attended on 20 August 2014. It appears to us that Mr Armitage may have been mistaken in his assertions. Even if going ahead with the meeting without a trade union representative present was a breach of an agreed procedure, we find it difficult to see how this assists the claimant in his complaints of direct race discrimination, harassment and victimisation made about this meeting.

179. At 21.16 on 20 August 2014, Sgt Mullen-Hurst sent the claimant an email, attaching the action plan. She noted that the claimant had said he would sign the plan the next day.

180. On 21 August 2014, Sgt Mullen-Hurst wrote by email to CI McFarlane, copied to Inspectors Kindrade and Sutcliffe and Sgt Swindells. She wrote that they had explained to the claimant the rationale behind his action plan, he had become quite "emotive" and wanted to go into great details about each point she raised. She wrote that the claimant had refused to sign the action plan until the day after the meeting because he wanted to make written comments about his feelings/thoughts to attach to it. She wrote that the claimant had alleged that the action plan was a "smoke screen" because he made a complaint about Sgt Prest and that he wanted to talk about his grievance but she had pointed out that this was not appropriate and it would be HR that would deal with his grievance if he had raised it to stage 2. She said that the claimant had asked if any other PCSO had been action planned under such circumstances and she had explained that she would not discuss any other officers' performance matters with him as it was confidential.

181. On 27 August 2014, Sgt Prest emailed Inspectors Kinrade and Sutcliffe with the subject "Grievance by PCSO Tegegn Bayissa". She wrote that she knew this had potentially gone now to HR and may have been escalated by the claimant. It appears from this that she had not been officially informed at this stage of the stage 2 grievance. She asked for guidance about the claimant's allegation about her slamming her fist down on a desk and shouting. She wrote that, at the time, she was on her knees speaking in a soft voice and at no time did she shout or slam her fist on any desk. She gave names of people who were in the room at the time. She asked: "When you confirm that this is a totally malicious lie what are you going to do with this clear breach of integrity, this is causing me concern/stress even though I know it shouldn't."

182. The claimant moved to J relief under the supervision of Sgt Swindells with effect from 28 August 2014.

183. On 31 August 2014, the claimant emailed HR, copied to CI McFarlane and others, a request to lift the decision of the in company period. Included in the 3 page

letter was an assertion that the action plan was based on incidents "deliberately taken out of context, incorrect, and amplified and the so called "action plan" is therefore needless and waste of time." He alleged that the 8 incidents and the action plan "were simply forced upon me as a form of collusion within some members of supervision as part of the strategy to evade the very nature of my complaint, Stage 2 Grievance over my experience within L-team and to deliberately divert attention." The claimant wrote that there was a general assumption at ESR "that supervision knows better than staff". He wrote that he was happy with a more positive approach from his new supervisor, Sgt Swindells, but wrote that the decision that he should be "in company" was having a negative effect on him and he requested an end to the "needless in-company period" with immediate effect and to allow him to go on independent patrol.

184. The claimant asserts in his witness statement that, at the time at ESR, there was no other PCSO, staff or PC suffering under an action plan. He alleges that he was victimised for standing against racism and abuse of power and rank in the police. As previously noted, the claimant had not, by this stage, made any allegation of racism. He had alleged abuse of power and rank. It would be a confidential matter as to whether other officers were under action plans; the claimant would not know if others were the subject of action plans unless they chose to share this information. We accept the evidence of various respondent witnesses that the use of action plans is common.

185. CI McFarlane responded to the claimant's email of 31 August 2014 on the same day to say that he would deal with this on his return from leave on Thursday. He wrote that the developmental support and action plan were to continue as previously discussed. Unfortunately, it appears that there was no later reply of substance from CI McFarlane to the claimant's email. However, we accept the evidence of CI McFarlane that he received an update from Sgt Mullen-Hurst on his return from leave to the effect that the claimant was working well on achieving the action plan. It may be that CI McFarlane did not respond to the claimant in error or because he had been reassured by Sgt Mullen-Hurst that things were progressing well and felt there was no need to respond. Whatever CI McFarlane's reasons were for not responding to the email, it is clear that he did not agree to remove the action plan. We find that the reason he did not agree to the claimant's request was because he believed there were developmental issues which needed to be addressed and the action plan was a suitable way of doing this.

186. On 4 September 2014, Sgt Swindells sent the claimant an email confirming a discussion. This noted positive points towards the action plan. Sgt Swindells also recorded that the claimant had said he felt he was being restricted and his frustration at not being able to work in Chorlton as this was his allocated beat.

187. On 8 September 2014, the claimant emailed Chief Superintendent Catherine Hankinson. His 7 page letter requested her intervention to end the in company period, remove the "amplified, groundless and smokescreen "Action Plan", conduct a thorough investigation and "bring to trial Police Sergeant Jacqueline Prest" and to investigate "all Sergeant Prest's colluding supervisory colleagues and managers about their behaviour – Sergeant Mullen and Inspector Kinrade, at least." The claimant also made recommendations to the Chief Superintendent about training and other matters. Within the letter, the claimant wrote about what the claimant has described in his witness statement as "hierarchies of racial discrimination". He wrote,

that “at work, generally, by comparison, life seems to be made easy for certain people, as I reflect below, with the degree of severity – going from easy (1), easiest (3) to difficult (4)”. Number (1) he identified as “white skinned” person. Number (4) he identified as “a gentle, polite, soft spoken, ‘non-native’ English speaking, “non-white skinned” person”. Although the claimant’s witness statement asserts that he raised in this letter a serious problem of hierarchies of racial discrimination at Elizabeth Slinger Road police station, the letter itself does not make the express allegation that his description of racial hierarchies was what was happening at ESR, although this could, perhaps, be understood as the implication of what he wrote. He wrote that a person in category (4) is “consciously or subconsciously misunderstood, underestimated, less trusted and systematically shoved aside.” The claimant complained about his treatment by Sgt Prest, Inspectors Kinrade and Sutcliffe and Sgt Mullen-Hurst but did not make any clear allegation that their behaviour was consciously or unconsciously motivated by race. He referred to the decision to withdraw him from independent patrol as “contrary to the principles of Operation Peel”. He referred to “prejudice” from his line manager but did not specify that he was alleging prejudice because of race. He did, however, refer again to an assumption that supervision knows better than staff and said he had observed what he described as a “Rank is Right mind set”.

188. Chief Superintendent Catherine Hankinson has left GMP and is now with another Force. She did not give evidence. However, we have been shown an email from Chief Superintendent Hankinson dated 8 September 2014, forwarding the claimant’s email to Chief Inspector Nawaz (as he then was) and asking him to take this forward with the claimant.

189. On 9 September 2014, Chief Inspector Nawaz was asked to deal with the claimant’s stage 2 grievance. He considered that the detail in the email to Chief Superintendent Hankinson was the same, or very similar, to the detail of the claimant’s grievance so decided to deal with issues raised in that email as part of the claimant’s grievance.

190. On 9 February 2015, Chief Superintendent Hankinson wrote to Chief Inspector Nawaz, asking for an update. He replied to this on 15 February 2015, saying that the claimant was still off work on sick leave. He wrote that the claimant had agreed to meet him but had not confirmed a date yet. He wrote:

> “I have had some support from Claire Light who came to see me and Denise Hill via telephone conference. Claire reviewed the investigation to date and provided a different perspective on some aspects. For example the creation of power dynamics in email communications that has led to escalation of entrenched and disparate viewpoints, missed opportunities for early mediation/intervention.”

191. As we note later, this perspective formed part of the outcome produced by Chief Inspector Nawaz to the grievance.

192. On 8 September 2014, PCSO Chee Chan sent an email to Sgt Swindells complaining that the claimant had acted in an extremely rude and unprofessional manner to him, describing the claimant’s behaviour as “unprovoked aggression” and asking to speak with the Sergeant.

193. On 17 September 2014, the claimant made an application to change his hours to accommodate study on a part-time MA in Religions and Theology which he was intending to undertake from 24 September 2014.

194. On 24 September 2014, Paul Armitage, a Unison steward, wrote to Inspector McFarlane. He wrote that he was representing the claimant. In respect of the meeting in which the claimant was given the action plan he wrote: "It would appear that certain protocols have not been adhered to and rights not given to Tegegn which form part of GMP policy and Recognition policy of Union representation for Unison members." He suggested that the Trade union recognition agreement required that the claimant have the opportunity to be represented at the meeting. Mr Armitage wrote that it appeared that the action plan was based on the points of the claimant's stage two grievance and that those examples could not be used in the grounds for a development and action plan. Mr Armitage requested that Inspector Kinrade rescind the action plan.

195. Inspector Kinrade replied to this email on 29 September 2014. He suggested they meet to discuss the issues raised. He also wrote: "A recent update from the officers line manager; Sergeant Swindells, is excellent and the officer appears to be benefiting from the support and looks like he will be undertaking some independent patrol time."

196. Mr Armitage wrote on 9 October 2014 that he was to represent the claimant at his grievance meeting soon, so a meeting was probably not worthwhile. Mr Armitage reiterated concern about the way the meeting about the action plan was arranged, with the claimant not given a chance to have representation, and that the action plan had already been typed up when it was meant to be discussed with him and the basis for the performance meeting was what the claimant's grievance was pinned on.

197. Some time in October 2014, Sgt Sally Watson returned to J relief after a period of absence and took over the claimant's line management from Sgt Swindells, who had been in a temporary position as a sergeant. Sgt Watson began to compile a Word document tracking the claimant's progress. We accept Sgt Watson's evidence that this is something she does for all the people she supervises. We note that the notes include things the claimant has done well as well as areas requiring development. For example, she refers to the claimant's intelligence updates as being of good quality. Areas for development include an incident when the claimant put a mobile phone which had been found in his drawer rather than the property system. Sgt Watson recorded that she spent quite a lot of time discussing this with the claimant and the fact that he had not followed the correct procedure and did not seem to understand the seriousness of the matter. She recorded that Sgt Brown had commented that, if the lady had complained, the claimant could have been interviewed or arrested.

198. On 17 October 2014, the claimant attended a grievance meeting with Chief Inspector Nawaz and Paul Winstanley from HR, who was advising CI Nawaz. CI Nawaz made some handwritten notes of this meeting and Paul Winstanley took notes which were typed. We accept the notes as accurate summaries of the meeting. The claimant outlined incidents he complained about. In relation to the incident on 1 August 2014, the claimant said that a cleaner had witnessed Sgt Prest shouting and banging on the table. From the notes, it appears that the claimant did

not raise an allegation that any, or all, of his treatment had been due to his race but Paul Winstanley initiated a conversation about this, after the claimant's description of events, asking the claimant if he thought it was racial prejudice, to which the claimant said yes.

199. On 20 October 2014, the claimant emailed CI Nawaz some further information relating to his grievance.

200. The claimant went to Ethiopia on 28 October 2014 to see his mother who was ill. He returned on 4 November 2014.

201. On 11 November 2014, Paul Winstanley asked for the grievance form to be amended to state that the claimant considered this to be a hate incident, based on race.

202. There was various correspondence about the claimant's flexible working request. The claimant was informed by the administration on 13 November that a further pattern he had submitted was fine in terms of hours. The claimant was asked to submit it through his sergeant for authorisation.

203. CI Nawaz interviewed Sgt Prest, Inspector Kinrade, Sgt Mullen-Hurst and Inspector Sutcliffe during November and December 2014. He also interviewed PC Ken Sirr, PC Claire Campbell and CI McFarlane.

204. Paul Winstanley spoke to the cleaner at ESR who witnessed the incident between the claimant and Sgt Prest on 1 August 2014. Mr Winstanley reported to CI Nawaz that she stated that she did not believe that Sgt Prest's behaviour was in any way inappropriate. Her perception was that Sgt Prest was simply trying to give the claimant reasonable instructions as any supervisor would be expected to do. The cleaner acknowledged that Sgt Prest can sometimes seem a little abrupt but stated that this was just her manner and there was no intention to offend the claimant. The cleaner commented that the claimant was particularly sensitive and she saw this as a clash of personalities rather than bullying.

205. Paul Winstanley also spoke to PCSO Orla Lynch about concerns she had raised about the claimant's preparedness to go on independent patrol and support she had given to the claimant with IT systems. PCSO Lynch told Mr Winstanley that she had not witnessed anything which she would perceive as bullying, nor any differential treatment based in race.

206. CI Nawaz had a further grievance meeting with the claimant on 26 November.

207. On 26 November 2014, Sgt Mullen-Hurst sent an email to Sgt Watson about the claimant working a late shift and leaving without letting evening supervision know. She asked Sgt Watson to remind the claimant to let evening supervision know if he was working late so they could keep an eye out for his welfare and to link in with supervision before he went home so they could stand him down from his tour of duty, know he was going home safe and not injured somewhere on division.

208. Sgt Watson then emailed the claimant on 27 November 2014 reminding him that he needed to speak to supervisors when he started duty when his start times were different to the group shift pattern and of the need to report to supervisors when he finished work when shift times differed. She wrote that she was requesting this so

that, at the start of a shift, they knew he had attended for work and so that she or Sgt Brown could give him any taskings that were required or any queries they might have and, at the end of the shift, so the other supervisors knew he was back safe and well and to deliver any feedback that was required.

209. On 28 November 2014, the claimant had a meeting with Sgt Watson and Sgt Brown. The claimant made some notes of this meeting in his note book and it appears to be the same meeting as one recorded in Sgt Watson's word document. The meeting covered a number of work issues, including the issue about not using the correct system to book in the mobile phone which had been found. Sgt Watson tried to discuss progress with the action plan but the claimant said this was to be dropped because it was the basis of the grievance. The conversation included the claimant refusing to work with L relief and to speak to the sergeants on L relief. Sgts Watson and Brown explained welfare checks and that, when they had gone home, the duty sergeant was in charge. The claimant would not accept that what they were saying was correct and said he would take it up with CI McFarlane. Sgt Watson recorded that the claimant became quite annoyed and stopped eye contact with her during that part of the meeting, the only time he never really engaged with her. Sgt Brown explained that, when he and Sgt Watson had gone home, the claimant would have to be supervised by the sergeants that were on duty. The claimant said he would not speak to them. Sgt Watson advised the claimant to look at his new proposed flexible work pattern to see if the shift pattern was still suitable.

210. On 30 November 2014, the claimant sent a 7 page email to Sgts Watson and Brown about the meeting on 28 November. He wrote that he felt it important to give them feedback on how some of the questions and arguments came across to him, so that lessons could be learnt for future discussions and that he would be better understood as a work colleague. He was particularly critical about Sgt Brown's tone in the meeting. The email included that the claimant did not wish to discuss the action plan because it was being disputed in its entirety on a separate platform. He confirmed that he was asking the Chief Inspector to communicate with them about the action plan and reporting to L relief. He wrote that "Meanwhile, I will maintain my present practice of reporting to duty sergeants in your absence, except L supervision." The claimant wrote about his commitment to his role and his desire to experience a good working relationship with everyone.

211. Sgt Brown replied on 3 December, thanking the claimant for the feedback and writing "but please don't feel as though you need to spend all this time on your day off writing lengthy emails."

212. On 30 November 2014, the claimant also wrote to CI Nawaz about the meeting with Sgts Watson and Brown on 28 November. He asked CI Nawaz to inform CI McFarlane and Sgts Brown and Watson to drop the action plan with immediate effect and to accept his wish and allow him to report to any supervision other than L team during his flexible working pattern which came to an end in May, rather than altering it. He resent this letter on 1 December 2014, this time copying it to Paul Winstanley and Paul Armitage.

213. At some point on or prior to 2 December 2014, CI Nawaz informed the claimant that he had decided that the action plan should stay in place throughout the duration of his investigation.

214. Paul Armitage wrote to CI Nawaz on 2 December 2014, asking him to reconsider his decision not to drop the action plan whilst he did his investigation into the claimant's grievance.

215. Paul Armitage wrote to CI Nawaz on 5 December 2014, informing him that, not only was the action plan subject to grievance but it also did not follow policy in relation to performance as no informal mutually agreed action plan was sought from the claimant's previous supervision and the claimant was declined the right to be represented or accompanied in breach of the trade union recognition agreement.

216. CI Nawaz had a grievance update meeting with the claimant on 12 December 2014.

217. The claimant sent further information to CI Nawaz on 22 December 2014.

218. On 13 December 2014, the claimant wrote to CI McFarlane, copying this to Chief Superintendent Hankinson and CI Nawaz, amongst others. He asked CI McFarlane to end the action plan. The letter included various allegations, including that the action plan was a product of collusion between "supervision" who took revenge action against him for complaining about a fundamental problem in management.

219. CI McFarlane replied to this letter on 14 December 2014. He wrote: "I do not accept the content of your email and as discussed previously you have been in regular contact with Mr Nawaz about the very issues you raise in the email." He offered that the claimant could come to see him if he wished to discuss the matter further and wrote that CI Nawaz would be welcome to come along.

220. The claimant wrote again to CI McFarlane on 17 December 2014. He wrote that he wished to discuss the problem with CI McFarlane but, given his experience at ESR, would not do so without a representative. He wrote that, as the Unison representative had other commitments and may not be available straight away, he considered "the safest environment in which I can engage in full discussion with supervisors/managers, is via this email platform with a clear line of communication with everyone concerned." He wrote that he welcomed discussion by email.

221. CI McFarlane replied the same day, writing that he had asked the claimant to make a suitable appointment to come and see him and CI Nawaz at his convenience. It appears no meeting ever took place.

222. We accept the evidence of CI McFarlane that he did not feel that he would have been able to remove the action plan at this stage as CI Nawaz had stated that it would be dealt with as part of the grievance outcome. If the claimant had completed his action plan whilst the grievance procedure was ongoing, he would likely have been allowed to patrol independently, which was ultimately the end target of the action plan.

223. The claimant copied Paul Bailey, chair of BAPA, into some email correspondence. By email of 18 December 2014, Paul Bailey asked DCC Ian Hopkins to read this as Paul Bailey considered it raised a number of issues concerning the claimant and Operation Peel. DCC Hopkins informed Paul Bailey on 27 January 2015 that the matter was to be considered at the next Hate Governance Group.

224. On 22 December 2014, the claimant sent a large volume of documents to CI Nawaz.

225. On 22 December 2014, Paul Armitage wrote to the claimant advising that the way forward was to put another grievance in with regard to the action plan not being dropped, breach of process and what the claimant had put in an email.

226. On 26 January 2015, Sgt Watson had a meeting with the claimant which was witnessed by Sgt Brown.

227. Prior to the meeting, an issue had arisen between the claimant and PCSO Kenyon about a job that both PCSOs had been meant to attend. They failed to meet up and PCSO Kenyon thought that this was because the claimant had gone to the wrong road and this mistake may have been because of miscommunication. PCSO Kenyon informed Sgt Watson that the claimant had accused her of lying. Entries in the claimant's note book about the incident indicate that the claimant was feeling there were racist attitudes towards him.

228. At 10.51 on 26 January 2015, the claimant sent an email to Sgt Watson informing her that he was working in the Response office on the 1st floor since there had been no computers free on the 2nd floor. He wrote that he was self-briefing, checking emails etc. He also wrote that he had just spoken to DRMU about his flexible working plan and what showed on DMS was right. He wrote that the hours suited his study times. Sgt Watson had instructed the claimant to attend for duty 10 a.m. to 7 p.m. that day, although DMS showed his working hours as 2 p.m. to midnight. Sgt Watson had told the claimant to forget DMS because it was wrong.

229. Sgt Watson replied to the claimant's email at 13.05, writing: "Tegegn, this is not acceptable, I need to see you at the start of the shift. I was busy in a meeting with staff on the 2nd floor and left the briefing with Sgt Brown, who presumed you were not at work today. Please come and speak now."

230. The claimant's note in his pocket book of the meeting which followed contains very little detail of what occurred. The only record he made of what was said was that Sgt Watson accused him, saying "You did wrong today". The claimant's witness statement omits this allegation. The claimant wrote an email the day after to Inspector Kinrade and Sgts Watson and Brown, but this recorded little about what was said, other than that he was called "rude", which Sgt Watson accepts was said by her, because she considered he was being rude. In early March 2015, the claimant sent CI Nawaz a 7 page description of what he said took place on 26 January 2015. This purported to record in great detail what had been said and done at that meeting. The only contemporaneous note produced by the claimant gives almost none of the detail included in this description. We do not consider the account given in March to be a reliable account of the meeting. The claimant wrote in his note book that he was ganged up on by Sgt Watson, Sgt Brown and Inspector Kinrade. He wrote: "This is nothing but sheer racism in ESR police station." We accept that this reflected the claimant's perception of events at the time.

231. Both Sgt Watson and Sgt Brown wrote accounts of the meeting in their day books shortly after the meeting. Sgt Brown frankly told us in evidence that with the way the discussion "panned out", they thought there could be repercussions, such as an "industrial tribunal" so they made notes to ensure they had something to refer to.

We accept that the notes made by Sgts Watson and Brown, whilst not a verbatim account of the meeting, are their true, near contemporaneous, recollection of the meeting. Where their accounts diverge from the evidence given by the claimant, we prefer the evidence of Sgts Brown and Watson, as supported by their notes.

232. Sgt Watson told the claimant that not attending the briefing was unacceptable. The claimant recorded in his note that she said "You did wrong today". Sgt Watson denies using those words, saying this was not something she would say. We consider it more likely than not that, although the claimant correctly understood he was being told he had done something wrong, this was not the terminology Sgt Watson used. We consider it more likely that she said "unacceptable" or "not acceptable", which is in accordance with her use of the words "not acceptable" in her email shortly before the meeting. The claimant questioned why he had to attend and not self-brief. Sgt Watson explained that they task at briefings and brief as a team when they start together. Sgt Watson said there was a misunderstanding in the flexible working pattern because his duties did not reflect their shift pattern. The claimant said his concern was not the team but his studies. Sgt Watson said she had asked PCSO Kenyon to come in so they could discuss the incident which had occurred and iron out any misunderstanding. The claimant alleges in the list of complaints that Sgt Watson defended PCSO Kenyon against the claimant's allegations that PCSO Kenyon had ignored the claimant for 2.5 hours on patrol. However, the claimant gave no evidence in support of this allegation. We find, on a balance of probabilities, that Sgt Watson did not defend PCSO Kenyon against such an allegation. The claimant refused to speak to Sgt Watson with PCSO Kenyon or to discuss the incident without a third party present. Sgt Watson said that this was just a day to day discussion. The claimant said to give him a date and a time for the meeting. Sgt Watson said, now, in 15 minutes. The claimant said he was not attending any meeting with her without an independent person present. Sgt Watson then approached Inspector Kinrade. She asked the claimant to go to Inspector Kinrade's office but the claimant refused. Sgt Watson then told the claimant he was being "rude" and there was a rank structure that he was not following.

233. The claimant alleges in his witness statement that Sgt Brown forced him to go from the sergeants' office into Inspector Kinrade's office. In the list of complaints, but not in his witness statement, he alleges that Sgt Brown said "get in there" while trying to force him into Inspector Kinrade's office. Sgt Brown denies he tried to force the claimant into Inspector Kinrade's office or said "get in there". We prefer the evidence of Sgt Brown, which is more consistent with the notes of the meeting and the evidence of Sgt Watson and Inspector Kinrade, that Inspector Kinrade came to the sergeants' office to speak to the claimant.

234. Since the claimant would not go to Inspector Kinrade's office, Inspector Kinrade came to the sergeants' office. The claimant said he had already complained about Inspector Kinrade and would not speak to him either. Sgt Watson and Inspector Kinrade tried to speak to the claimant about the matter but he refused to engage in conversation. The contemporaneous notes do not assist in how the meeting ended. There is common ground that the claimant then spent some time in the parade room before Sgt Watson went to speak to him about his working pattern.

235. The claimant's evidence is that he asked Inspector Kinrade if he could go home because he had a headache and that Inspector Kinrade said "That's bullshit, you were fine" and told him to wait in the parade room and he would see if Sgt

Watson had enough staff. Inspector Kinrade denies that he swore at the claimant. We consider that, if Inspector Kinrade had done so, the claimant would have recorded this in his note book; he did not do so. We find, on a balance of probabilities, that Inspector Kinrade did not swear at the claimant. Inspector Kinrade recalls the claimant saying he had a headache but not asking to go home. Sgt Watson recalls the claimant saying he had a headache and asking Inspector Kinrade to go home, but puts this as a couple of hours after the initial meeting. It seems unlikely to us that Inspector Kinrade would have told the claimant to go to the parade room while he saw if Sgt Watson had enough staff when Sgt Watson was in the same room. We find, on a balance of probabilities, that the claimant complained of a headache and asked to go home at a later stage in the day.

236. Sgt Watson went to speak to the claimant a couple of hours later, after the claimant had asked Inspector Kinrade if he could go home, saying she needed to speak to him about his flexible working plan before he went home. The claimant had asked for a start date of 26 January 2015 for his flexible working plan on a shift which did not correspond to J relief's shift pattern. Sgt Watson wanted to clarify if this was an administrative error or whether the claimant was asking to work a totally different set of shifts with another relief. Sgt Watson tried to explain the situation but formed the impression that he was not listening to her and could not grasp what she was saying. The claimant said he had never been called rude and his wife would not believe it. He accused Sgt Watson of treating him like an animal. He alleged that she spoke to anyone else nicely and to him with hostility. Sgt Watson denied this and said she dealt with everyone the same.

237. We are unclear whether the claimant did go home early that day. We note that the page of the claimant's note book which contains a brief note about the meeting does not end with a record of the time of the end of the tour of duty and we have not been provided with the subsequent page of the note book. We assume there was no entry of relevance to this case on the subsequent page since it has not been disclosed and included in the bundles.

238. On 27 January 2015, the claimant sent an email to Inspector Kinrade and Sgts Brown and Watson about the previous day, to which we have previously referred. He concluded that "As a result of the negative and hostile environment which you created for me, and the severe headache your behaviour caused to me, I am unable to come to work for some time. I am seeking Doctor's help and will provide a Note in due course."

239. On the same day, the claimant wrote to ACC Gary Shewan, copied to CI Nawaz, amongst others. He wrote that the purpose of the email was to share with him important information before he made a decision about his job. The email included a repetition of his view that the role of a PCSO is not "rocket science". He also stated that he felt he was over-qualified for the job. He wrote that, since he had joined the Division in March 2014, he had been undergoing "subtle prejudices – assumptions, stereotypes and 'racist' attitudes from some officers" at ESR. He wrote that he continued "to experience the most subtle form of prejudice from some officers, who are professionals at telling lies." He wrote that, since his grievance about supervision, he had been observing collusion within supervision/management, extending to victimisation, as he had been challenging "the culture of Rank-is-right-no-matter-what, a culture that is contrary to reason and logic." He wrote that,

because he continued to suffer from bullying and harassment, he was pushed into considering resignation.

240. CI Nawaz wrote to the claimant the same day, urging him to come and speak to him before he made a decision to leave GMP. He wrote that he knew how passionate the claimant was about serving and working with the communities across South Manchester and wrote "Organisationally we need people with a strong sense of vocation and passion, but more importantly it is what the public want." CI Nawaz also wrote that, as discussed the previous week, he would be completing the investigation that week and inviting the claimant to an outcome meeting shortly after.

241. On 28 January 2015, Paul Winstanley emailed CI Nawaz in relation to the claimant's email alleging harassment on 26 January 2015. He wrote that Sgt Watson had called him the previous day about this incident. Paul Winstanley wrote:

> "I briefed her confidentially on the possible medical condition issue and the fact that we have agreed to raise this with him first to see if there may be anything in this before a decision is made regarding how to manage the behavioural side of things.
>
> "Sally informed me that she is in a difficult position where relationships have broken down and Tegegn is on occasion refusing to follow reasonable instructions and is not showing the required level of respect she should expect to receive as his line manager.
>
> "I reassured her that she is not the only manager to have raised these issues (highlighting the e-mail sent by Tegegn to Steve McFarlane) and that as soon as we have spoken with him and explored the medical position all these issues can then be addressed and managed as appropriate. Clearly whether or not this is the result of behavioural differences resulting from a medical condition or simply misconduct, Sally should not be place in this position and I have assured her that a plan of action will be set in the next few days following the conclusion of our findings this afternoon."

242. Mr Winstanley suggested that for the next few days, the management of the claimant's welfare would sit best with CI Nawaz.

243. We did not hear evidence about the possible medical condition issue referred to, but it is apparent from this letter that they were considering whether the way the claimant was behaving was the result of a medical condition.

244. ACC Shewan replied to the claimant's email on 28 January 2015. He assured the claimant that his email had caused him genuine concern and that he would take an interest in the outcome of any current investigation. He wrote that he hoped they could change his mind about questioning his continued employment and that he had asked Claire Light, his Head of Equality, to contact the claimant directly and explore what they could do to support the claimant at this difficult time. ACC Shewan wrote that he hoped that they could turn the claimant's concerns around and allow him to concentrate on the claimant's obvious passion – working with his community.

245. The claimant's wife, Lucy Bayissa, wrote to Sir Peter Fahey, then Chief Constable, on 29 January 2015. She asked for the Chief Constable's intervention in her husband's situation, alleging that the claimant had "been subjected to subtle racist attitudes and prejudices from some officers at work." An acknowledgement of this letter was sent from the Chief Constable's office on 4 February 2015, writing that it had been forwarded to the Professional Standards Branch for their information and action. Mrs Bayissa received no further correspondence following her letter.

246. The claimant began a period of sickness on 27 January 2015 which continued until 19 March 2015. The reason for absence on fit notes was "work related stress".

247. On 2 March 2015, CI Nawaz held a grievance outcome meeting with the claimant. We have not been shown any notes recording what was said at this meeting. However, since the outcome was set out in a letter dated 10 March 2015 (although not sent to the claimant until June 2015), we consider it likely that what was said was close to what appears in that letter although the letter was clearly not finalised until after the grievance outcome meeting since the letter refers to discussions in that meeting. The claimant's evidence is that he understood from the oral outcome that CI Nawaz was upholding most of his grievances. He considered, therefore, when he eventually received the written outcome that there was a difference between the oral and written outcomes. Whilst we find that CI Nawaz did not alter the substance of his findings, it may be that the discussion about "micro-macro aggressions" in academic research to which CI Nawaz subsequently referred in his outcome letter, unwittingly gave the claimant a more positive view of the outcome than was, in fact, justified.

248. On 3 March 2015, the claimant wrote to CI Nawaz. He wrote that he really appreciated CI Nawaz's time, energy and effort in this. The claimant raised two further points: he wanted CI McFarlane to be approached about why he rejected the claimant's request, saying "I do not accept the content of your email"; and he wanted CI Nawaz to investigate the incident of 26 January 2015.

249. The grievance outcome letter is dated 10 March 2015 but was not sent to the claimant until June. We are still unclear as to why this was the case. The claimant had asked for the incident of 26 January 2015 to be investigated. Investigation of this further incident might have held up the letter. However, the letter which was sent, referred to this further matter having been raised and said that CI Nawaz would investigate it and write to the claimant again to outline his findings and proposed resolutions. It may be that CI Nawaz's promotion to Superintendent in April 2015 had some impact. Although CI Nawaz clearly did some investigation into the events of 26 January 2015, we have not been shown any outcome given to the claimant into the grievance about these events.

250. The outcome letter dated 10 March 2015 gave an outcome to 10 points of grievance which CI Nawaz summarised in the letter. These included complaints about Sgt Prest, Sgt Mullen-Hurst, Inspector Kinrade and Inspector Sutcliffe and a general allegation of a general difference in treatment of staff at ESR based on race and stereotyping.

251. CI Nawaz upheld two of the allegations: that the claimant's complaints of bullying were not effectively dealt with by Inspector Kinrade or Inspector Sutcliffe;

and that there was unreasonable delay in processing the claimant's stage 2 grievance.

252. CI Nawaz did not uphold 4 of the allegations.

253. CI Nawaz partially upheld an allegation that Sgt Prest deliberately prevented the claimant from completing his PDP. CI Nawaz found no evidence to suggest that Sgt Prest deliberately prevented the claimant from completing the PDP but found that further supportive actions could have been taken on certain occasions.

254. CI Nawaz partially upheld an allegation that Sgt Prest incorrectly recorded the claimant's reason for absence as psychological disorder. CI Nawaz recognised that there was no option on DMS to record stress and that Sgt Prest had been advised by HR to record this as psychological disorder. He wrote that Paul Winstanley was requesting that recording options be reviewed to ensure that managers are able to accurately record stress related absences in the future.

255. CI Nawaz partially upheld an allegation about the action plan. He found no evidence to suggest that the decision to highlight and address developmental issues was unreasonable or that there was any collusion between Sgt Mullen-Hurst and Sgt Prest. However, he found learning points with regard to the way in which it was undertaken and the way this caused the claimant to feel.

256. CI Nawaz partially upheld the allegation that there was a general difference in treatment of staff at ESR based on race and stereotyping. He wrote:

> "In the course of my investigation no person interviewed has provided any evidence of overtly discriminatory behaviour. They all felt there was no discriminatory culture whatsoever at ESR. The people I have spoken with include those that you requested I interview.
>
> "I explained that I will however continue to investigate your concerns by speaking with other BME staff to ascertain their experience.
>
> "I do however find that there is a need for recognition of all supervisors involved of micro-macro aggressions and the way in which their behaviour caused you to feel. As with Point 4, I have outlined my recommendations on this in the 'Summary and Recommendations' section below."

257. In the summary and recommendations, CI Nawaz wrote that he had not found any evidence of any conscious intent to discriminate. He wrote:

> "I have however found examples of subtle, unconscious bias leading to unintentional discriminatory behaviour. This includes a failure of managers to truly recognise difference and respond in an appropriate way. This has resulted in you experiencing strong feelings of discrimination and isolation. In an attempt to manage you in a fair and consistent way, managers have failed to address your individual needs and circumstance.
>
> "As evidenced in academic research on occupational stress linked to discrimination, there has been a spiral of events which has led to an impasse. I explained the academic model to you, including the concept of micro-macro

> aggressions, and you agreed that you felt this closely matched your personal experience."

258. CI Nawaz did not outline in his outcome letter what these examples of unintentional discriminatory behaviour were.

259. We have difficulty in understanding what, if anything, it is that CI Nawaz found had been done by supervisors at ESR which constituted differential treatment of staff based on race and stereotyping. Partially upholding this allegation would suggest that he has found some differential treatment, albeit of a non-overt nature. The statement that he found "examples of subtle, unconscious bias" also suggests he found subconsciously motivated race discrimination. However, CI Nawaz's witness statement seeks to clarify that he found no evidence of discriminatory behaviour, whether overt or otherwise. He gave evidence that he was not, in his outcome letter, reaching any conclusion that the claimant had suffered any race discrimination. If this is the case, the letter is unfortunately phrased. If unconscious discrimination had been found, this needed to be identified specifically. It is hard to see how supervisors at ESR could be expected to learn from this if they were not told specifically what it was that they had done wrong.

260. CI Nawaz gave an example in his witness statement of where cultural differences may have played a part. He said the claimant had told him that it was part of his culture not to make direct eye contact with individuals in authority and noted that there had been a meeting where the claimant did not maintain eye contact. However, the claimant, in putting his case to this tribunal, did not suggest that any failure on his part to maintain eye contact had been due to respect for authority and, indeed, asserted to witnesses that he had maintained eye contact. CI Nawaz's evidence was that he had not spoken specifically to the claimant about whether he had failed to maintain eye contact in certain meetings relevant to his grievance and, if so, whether this was due to cultural difference. CI Nawaz reached no conclusions, therefore, as to whether lack of eye contact in this case was due to cultural difference.

261. We find that CI Nawaz made a conscientious effort to deal with the claimant's grievances on their merits. The claimant has not explained why he considers that CI Nawaz's conclusions were tainted by race discrimination. He pointed to no evidence which suggests that CI Nawaz would have reached more favourable conclusions if he had been dealing with allegations made by someone in a similar situation but of a different race.

262. We consider it possible that CI Nawaz, in fact, reached conclusions more favourable to the claimant, in respect of partially upholding the allegation of general difference in treatment at ESR, than were justified on the evidence before him and that he might have done in another case. CI Nawaz recognised, as did others who dealt with the claimant's grievances, that the claimant genuinely felt that he was being treated less favourably because of his race. The claimant had threatened to resign. As is evident from CI Nawaz's quick reply to the claimant's threatened resignation, CI Nawaz was very keen to keep the claimant within GMP. It may be that a wish to soften the blow of other findings, to not demoralise the claimant further and to reduce the risk of him resigning led to the conclusions about "subtle, unconscious bias". Whether or not we are right in this speculation, there is certainly

no evidence to suggest race was a conscious or unconscious motive in CI Nawaz's rejection of the parts of the grievance which were not upheld by him.

263. CI Nawaz informed the claimant in the outcome letter that, at the claimant's request, and despite efforts from CI Nawaz to persuade him to return to E Division, the claimant would be moved to A Division. CI Nawaz wrote that he would work with the claimant to agree a support plan to facilitate his return on the A Division.

264. The claimant appealed against the outcome of the grievance. We note that the grounds of appeal do not allege any less favourable treatment because of race by CI Nawaz in dealing with the grievance. Chief Superintendent Mary Doyle dealt with the stage 3 grievance. She had a meeting with the claimant on 8 July 2015. She sent her outcome to the claimant on 25 November 2015. She set out in the letter the outstanding issues which the claimant had clarified at their meeting on 8 July 2015. She listed those she had interviewed in relation to these points. She set out her conclusions and reasons for these conclusions in detail. The claimant says in his witness statement that he was insulted by the outcome and that recommendation number 3 was "totally biased and a slap in my face." He alleges that he was not listened to. In relation to the listening point, we consider the careful and detailed response to the stage 3 grievance shows clearly that CS Doyle did listen to the claimant. The claimant again is confusing not listening with not agreeing with him. Recommendation 3 is: "Tegegn Bayissa to consider the impact of his own behaviours on others and how, on occasion, these may have contributed to some of the difficulties experienced." CS Doyle explained clearly the basis for this recommendation in the section of the letter dealing with "individual accountability in respect of supervisors' behaviours and failings in terms of their management duties towards you." She noted in this section that there was evidence to suggest that the line managers involved had failed to successfully hold difficult conversations and communicate effectively. She then wrote:

> "Likewise, it appears that there has been an unconscious failure to recognise and understand difference and a lack of skill in the ability of the supervisors involved to empathise and respond in an appropriate way. The bundle of paperwork provided to me contains numerous extremely lengthy communications written by you that were sent to various colleagues, supervisors and members of the SLT. The style and tone of some of these emails are unlikely to have been helpful in forging healthy working relationships and opening up much needed dialogue between yourself and the individuals concerned. I understand that you were experiencing strong feelings of isolation and, perhaps, this was your way of reaching out for much needed help and understanding, but I would consider some self-reflection about some of your own behaviours may be helpful in understanding your own role in some of the situations described."

265. CS Doyle explained in her evidence that, by finding there was an unconscious failure to recognise and understand "difference", she was not referring to the claimant's race but to his life experiences; the claimant was well educated and had gained life experiences before becoming a PCSO. It appeared to her that the claimant did not appear to react well when the sergeants told him what to do and she felt this may have had something to do with the fact that he had gained a great deal of life experience before starting work as a PCSO. Despite this, the claimant had chosen to join a disciplined organisation and he needed to learn how to take orders.

She felt that the sergeants could have had more of an awareness of the claimant's individual circumstances and should have considered these when approaching him about matters.

266. The claimant has not explained why he considers that the stage 3 outcome is tainted by race discrimination. We find the claimant has provided no evidence which suggests that CS Doyle would have reached more favourable conclusions if she had been dealing with allegations made by someone in a similar situation but of a different race. We find that CS Doyle carefully considered the evidence before her and reached her conclusions based on that evidence.

267. The claimant tried to appeal to the Police and Crime Commissioner but was informed that the resolution he was seeking, that the officers named in the grievance should be held to account through disciplinary action, was outside its remit.

268. On 27 March 2015, the claimant was given official confirmation that his request to transfer from the South Manchester Division to the North Manchester Division had been approved and his transfer took effect from 23 March 2015.

269. The claimant was based at Central Park station in Cheetham Hill. He reported to Sgt Darren Thomason. There was a Neighbourhood Beat Officer, Graham Rothwell, for the area including the claimant's "beat".

270. The claimant makes no complaints in relation to the period from when he started in Cheetham Hill in March 2015 until an incident on 6 June 2016.

271. On 6 June 2016, the claimant gave information over the radio to communications about sighting a missing person. The claimant alleges that NBO Graham Rothwell when on the radio made comments, negating what the claimant was saying and slighting his contribution. The claimant alleges that he was told by another PCSO that NBO Graham Rothwell had made fun of the claimant's accent in the office after hearing the claimant's report. The claimant also alleges that NBO Graham Rothwell mocked the claimant in front of the claimant and others in the office by singing the name of the missing person in the way the claimant would say the name. We note that, for that day, the claimant recorded in his notebook only that "I didn't like NBO Graham's attitude". NBO Rothwell denies that he discredited the claimant's contribution. He said that, if he had said that, at a different time, he had seen the person elsewhere, this was not discrediting the claimant's contribution; people move around. NBO Rothwell denies he mocked the claimant's accent. We note that the claimant does not refer to this alleged incident in his grievance submitted on 4 November 2016. The claimant gave oral evidence that he had told Paul Coburn about this incident in his grievance meeting. We accept Paul Coburn's evidence that the claimant did not mention this allegation; had he done so, Paul Coburn would have made a note of this and dealt with this allegation. If it had occurred, it would have been the incident closest to overt racism (save for the alleged comment by Inspector Kinrade about "negroid races" which we found, on a balance of probabilities, was not made). We consider that, if the incident had occurred as alleged, the claimant would most likely have recorded this in his notebook and would have raised it in the grievance proceedings. We find, on a balance of probabilities, that NBO Rothwell did not slight the claimant's contribution and did not mock the claimant's accent.

272. On 22 June 2016, the claimant was the subject of racial abuse by members of the public when on duty, attending a report of anti-social behaviour. The claimant alleges that Sgt Thomason and NBO Rothwell failed to contact him and provide him with support after a report was made about this incident. The claimant's note book entry for the day records the racist incident but records nothing about lack of support.

273. We find that Sgt Thomason was on annual leave on the day of the incident and NBO Rothwell was off duty on that day. Temporary Sergeant Caroline Mullen-Hurst was the officer on duty who completed the initial evaluation. On the action board, she recorded the incident, which included a note that the claimant would not recognise the males who were abusive again, and noted that further investigation was required. On 23 June 2016, she asked Sgt Thomason to allocate an officer to conduct house to house enquiries and to re-contact the original informant who reported anti-social behaviour. On 28 June 2016, Sgt Thomason allocated the case to NBO Rothwell as officer in charge. Sgt Thomason's instructions to NBO Rothwell included that he should review the claimant's statement. NBO Rothwell noted on the system on 8 July 2016 that he had spoken to the claimant about the incident. On 18 July, NBO Rothwell wrote that they had completed house to house enquiries with a negative response. He wrote "Due to RDs last week I have been unable to complete other enqs with Tegnan, who has been on leave due to Ramadan." Later reports recorded that the claimant had gone to Ethiopia due to a family death and had then been on sick leave after returning. On 18 August 2016, NBO Rothwell wrote that he had spoken to the claimant about the incident, and requested that the crime be filed pending any further information about the offenders.

274. The claimant alleges that NBO Rothwell did not speak to him about this incident. We find, on a balance of probabilities, that the records NBO Rothwell made at the time about speaking to the claimant are more likely to be accurate than the claimant's recollection so long after the event. There is no apparent reason for NBO Rothwell to have completed the report with anything other than what he believed to be accurate information. We find, on a balance of probabilities, that NBO Rothwell did speak to the claimant about the incident.

275. The claimant went to Ethiopia on 17 July 2016. The report on 18 July is clearly wrong in saying that the claimant was on leave due to Ramadan since the claimant is Christian rather than Muslim. However, we accept NBO Rothwell's evidence that he wrote this because this is what he had been told by someone. We note that NBO Rothwell misspelt the claimant's first name, in several variations, in his reports. The first misspelling replicated an error made by Sgt Thomason.

276. We find that Sgt Thomason's involvement was limited to reviewing the crime and allocating it to NBO Rothwell, in whose area the incident occurred. Sgt Thomason did not recall whether or not he spoke to the claimant about the incident, although he thought he would have done with an incident of this nature. Whether or not Sgt Thomason did speak to the claimant, the claimant has not pointed to any evidence to suggest Sgt Thomason would have acted differently if the incident had involved a PCSO of another race.

277. The claimant has not pointed to any evidence to suggest NBO Rothwell would have acted differently had the incident involved a PCSO of another race.

278. The claimant alleges, in the list of issues, that, on 22 June 2016, when the claimant said, at the station when asked what had happened, that people had been racist, PCSOs rolled their eyes and ceased discussion of the incident at the mention of "racist". The claimant gave no evidence about this in his witness statement and it does not appear that he made any complaint about this prior to these tribunal proceedings. The burden of proof is on the claimant to satisfy us, on a balance of probabilities, that the incident occurred as alleged; he has not done so. We find, on a balance of probabilities, that this did not occur.

279. On 12 September 2016, the claimant was hit on the head by a member of the public when on duty. The claimant called for assistance on his radio. PC Dave Fenton and another police officer arrived and then NBO Rothwell and PCSO Townsend arrived in a police van. The officers got the assailant under control and took him into custody in a police car. The claimant alleges that PCSO Townsend and NBO Rothwell neglected the claimant by not offering him a lift in the van back to the station after he had been assaulted, leaving the claimant to cycle back to the station. The evidence of NBO Rothwell to this tribunal and the evidence given to Inspector Coburn in the grievance proceedings from other officers present, was that they tried to get the claimant's bike in the van but it would not fit, the claimant was offered a lift back to the station and for someone else to ride his bike back to the station but the claimant refused. The claimant wrote in his pocket book: "I would have liked to get a lift back but as there was no room in the van I cycled back." This is ambiguous as to whether there was no room in the van for his bike and/or for him. The claimant wrote the following day to Sgt Thomason that NBO Rothwell told him to cycle back. However, the claimant's witness statement does not say this, the claimant saying that NBO Rothwell and PCSO Townsend drove off in the van leaving him to make his own way back to the station. We prefer the evidence of NBO Rothwell, taken with the statements obtained by Inspector Coburn from other officers present, that the claimant was offered the chance to ride back in the van, with someone else riding his bike, but he refused.

280. The claimant alleges that PCSO Townsend asked the claimant where he had been hit and then told him to turn the other way and PCSO Townsend would "balance" it for him. The claimant alleges that later, back at the station, PCSO Townsend made fun of the claimant's pain, saying "boss, I want to go home, I'm in pain boss," although the claimant's witness statement omits this allegation. The claimant did not record these alleged comments in his pocket book. However, he wrote the following day to Sgt Thomason that PCSO Townsend made these comments. Unfortunately, PCSO Townsend was unable to give evidence at this tribunal hearing due to illness. A witness statement from him was submitted in evidence, in which PCSO Townsend denied ridiculing the claimant but this evidence could not be tested in cross examination. We find, on a balance of probabilities, that comments of this type were made, probably in a misplaced attempt at humour. However, there is no evidence to suggest that PCSO Townsend would not have made similar "humorous" remark to a person of another race in similar circumstances. The word "boss" may be used in many contexts with no racial connotations. Although the claimant did not suggest the word "boss" had some racial connotation, the tribunal is aware that, in some contexts, use of the word "boss" could be related to race, with connotations of slaves and slave owners. However, in this context, we consider that "boss" was likely to be a common form of address for a senior officer. We note that the claimant's email to Sgt Thomason in which he made the allegation did not make any allegation of race discrimination.

281. In his witness statement, the claimant alleged that Sgt Thomason mocked his experience, saying "Tegegn, our little soldier". This is not an allegation in the list of complaints. The alleged comment does not appear in the claimant's notes in his pocket book or in the email he wrote the day after to Sgt Thomason. We find, on a balance of probabilities, that this was not said by Sgt Thomason.

282. Following this incident, the claimant was off work sick 13-15 September 2016 and was then on rest days 16-18 September 2016. He returned to work on 19 September.

283. On 13 September 2016, whilst he was off sick, the claimant sent a lengthy email to Sgt Thomason. He expressed unhappiness about comments made by Sgt Thomason at a briefing the day before about officers finishing earlier than their duty time. Sgt Thomason had commented on this because NBO Rothwell had informed him that a number of PCSOs had left work before their tour of duty had ended on 7 September 2016, a day when Sgt Thomason had been on annual leave. Sgt Thomason was not aware which PCSOs had been on duty on 7 September 2016 and addressed the matter collectively. The claimant had been on a rest day that day and took exception, in the letter, although he had not spoken at the meeting, to the comment addressed to the whole team. PCSO Townsend had expressed exception to the comment at the meeting since he had not been on duty that day. Amongst many other matters, the claimant wrote about the incident when he had been assaulted the day before and made allegations about NBO Rothwell and PCSO Townsend, including that NBO Rothwell told him to cycle back from the incident referred to above. The claimant alleged, amongst other things, that NBO Rothwell used sarcasm and formed "cliques". The claimant relies on this email as a protected act for some of his complaints of victimisation. There is nothing in this email which could be reasonably understood as being an allegation of unlawful discrimination.

284. The claimant alleges that, a few days after he returned to work, Sgt Thomason spoke to him briefly about the email. He alleges that Sgt Thomason did not take his concerns about NBO Rothwell seriously, saying that NBO Rothwell was a professional officer. The claimant alleges that Sgt Thomason disputed the claimant's experience at ESR, saying there was no racism in GMP and rolling his eyes. Sgt Thomason does not recall any conversation following the email. However, given that Sgt Thomason had briefly acknowledged receipt of the email within half an hour of receipt, saying they would speak the next day, we consider it likely there was some discussion about the email. There is no contemporaneous record of a conversation. The claimant says in his witness statement that there was a brief conversation and he had told Sgt Thomason he was not making a grievance. The claimant says he "faced resistance" from Sgt Thomason. It is not entirely clear to us what the claimant means by this and how, he says, this was demonstrated by Sgt Thomason. The claimant says that Sgt Thomason said that NBO Rothwell was a professional officer. We consider it likely that Sgt Thomason commented on NBO Rothwell being professional, given this was his view. We find that Sgt Thomason had a brief conversation with the claimant during which he said that NBO Rothwell was professional. The claimant said in oral evidence, although this did not appear in his witness statement, that Sgt Thomason said NBO Rothwell and PCSO Townsend had been working together for a long time and it was a "hard nut to crack". It is not necessary for us to decide whether this was said, but accept this may have been said. This would seem to follow from the allegation that NBO Rothwell formed "cliques". There is no evidence that Sgt Thomason spoke to NBO Rothwell and/or

PCSO Townsend or took any action other than speaking to the claimant following the claimant's email. We find, on a balance of probabilities, that Sgt Thomason did not take any further action.

285. Sgt Thomason knew that the claimant had had difficulties with his supervision at ESR. He gave evidence that they had a conversation at some time about the claimant's grievance against his previous line manager. He gave oral evidence that the claimant had told him, two or three months into his posting, about this and that the claimant had told him it was race related. The claimant alleges that Sgt Thomason denied his experience of racism at ESR and said there was no racism in GMP. We consider it unlikely that Sgt Thomason would have made such a categorical statement as to say that there is no racism in GMP or that he would have made a statement about a station about which he did not have personal experience. We find, on a balance of probabilities, that Sgt Thomason did not tell the claimant there was no racism in GMP or at ESR. However, we consider he may have said that there was no racism at the Cheetham Hill station, given the multi-racial nature of the work force. It is for the claimant to satisfy us, on a balance of probabilities, that Sgt Thomason rolled his eyes, as alleged. Sgt Thomason denies this. The claimant has no contemporaneous note in support of this allegation. We find, on a balance of probabilities, that this did not happen.

286. The claimant relies on the email sent to Sgt Thomason on 13 September 2016 as a protected act for later complaints of victimisation. The email contains no explicit allegation of race discrimination. We find it could not reasonably be read as alleging race discrimination. Sgt Thomason, when asked whether he understood the email as alleging race discrimination at first answered that he did, that was part of it, then said he did not know and then referred to a race undertone. We consider it likely that Sgt Thomason is reading this now, with the benefit of hindsight, in the context of complaints made by the claimant later of race discrimination. We do not consider that his evidence is reliable as to what he thought it was alleging at the time.

287. On 24 September 2016, the claimant sent an email to Sgt Thomason about a number of matters. One was about ongoing anti-social behaviour (ASB) in a particular area. The claimant wrote that local callers said they saw youths smoking cannabis, shouting, threatening, leaving rubbish on pavements etc. The claimant asked if PCSOs in vehicles could be asked to pay more attention to this on a regular basis. Sgt Thomason replied the same day to say he had asked NBO Rothwell to have a chat about this. The claimant alleges that, a few days later, Sgt Thomason called him and NBO Rothwell to have a talk. The claimant alleges that he was "resisted" by both, but particularly by NBO Rothwell who said some of the callers themselves took cannabis. NBO Rothwell denies saying this. Sgt Thomason denied being dismissive. There are no contemporaneous notes supporting this allegation. The allegation about NBO Rothwell was not raised in the grievance presented on 4 November 2016. The claimant, in the grievance, alleged that he was victimised by Sgt Thomason for raising a number of important issues regarding work and the working environment. "For example, the exclusion & clique culture internally and the FWINS relating to ongoing ASB in Cheetham." The claimant did not allege in the grievance that Sgt Thomason had been dismissive of his suggestion. The claimant, in oral evidence, said he had raised his allegations about NBO Rothwell and Sgt Thomason in the meeting with Paul Coburn. However, Paul Coburn does not record anything about this allegation other than the allegation of victimisation set out in the

grievance form. We find, on a balance of probabilities, that the claimant did not make the allegation, as it is now made, to Paul Coburn. The burden is on the claimant to satisfy us that the events occurred as alleged by him. The claimant has not satisfied us that Sgt Thomason and NBO Rothwell "resisted" what he raised about ASB and that NBO Rothwell said that some of the callers take cannabis. We find, on a balance of probabilities, that these events did not occur as alleged by the claimant.

288. On 3 October 2016, the claimant sent an email to Sgt Thomason, writing that he was attaching a letter, which he thought would be suitable to support his application. The claimant says it was a letter in support of his application to adopt a child but it is not addressed to an adoption agency or to any intended recipient. The claimant asked for Sgt Thomason's signature on the letter. This email does not specify what application the letter is in support of. It appears that a letter was attached. The claimant says the attachment was a letter which says:

> "This is to confirm that Mr Tegegn Bayissa works in my team in the role of Police Community Support Officer as a full-time member of staff in Greater Manchester Police.
>
> Should you have any questions, please do not hesitate to contact me directly via the address below."

289. We cannot be sure from the documents in the bundle that this letter is the one which was attached to the email.

290. Sgt Thomason said in his witness statement that he did not recall the request from the claimant. In oral evidence, however, he said he recalled discussing with the claimant that the claimant had been asked to provide a letter of confirmation in connection with his application to adopt a child. Sgt Thomason said he did not recall receiving the email and draft letter. He said he felt uncomfortable providing such a letter; he did not feel he knew the claimant well enough and would struggle writing a reference for adopting a child even for someone he had known for a couple of years. It is common ground that Sgt Thomason did not provide a reference.

291. We find that Sgt Thomason was asked by the claimant to provide a reference in relation to an intended application to adopt a child. Sgt Thomason did not provide this. We find that he did not do so because he felt uncomfortable doing so for someone he had only known a short time.

292. On 5 October 2016, the claimant alleges that NBO Graham Rothwell attended unnecessarily at Unity Primary School, when the claimant was already at the school dealing with the parking issue. This was a new school and there were issues with neighbours objecting to people parking by their houses to drop children at school. The claimant attended the school in the morning to help deal with the issue. He found that NBO Rothwell and PCSO Townsend were also there. There is a dispute about whether they had told the claimant they would be attending. We find that they went to support the claimant because of the parking issues there had been, because it was quiet at the schools they had gone to first. The claimant's view was that it was unnecessary for them all to be there. The claimant has not explained why he considers that NBO Rothwell attending unnecessarily was direct race discrimination.

293. There has been some confusion on the respondent's part about the nursery to which the claimant refers in allegation 42. NBO Rothwell refers in his witness statement, in error, to a matter concerning another nursery, where he says the claimant asked him to attend with a police car, on a community engagement visit, and the claimant then arranged for another police officer to attend after NBO Rothwell told the claimant he needed to make proper arrangements for the visit with the nursery. However, the claimant's allegation relates to another matter, where he had visited a different nursery and was then told by PCSO Johns that he should not attend this nursery because it was PCSO Johns' "patch". The allegation is made against NBO Rothwell. The claimant alleges that PCSO Johns told him that NBO Rothwell told him to tell the claimant not to go to the nursery. In answer to questions from the claimant, NBO Rothwell denied that he had said that the claimant should not go to that nursery, but said the nursery was in PCSO Johns' "patch". The claimant wrote to Arif Nawaz about this matter, amongst others, on 24 October 2016. The claimant did not, in this note, dispute that the nursery was in PCSO Johns' "patch", although in his witness statement he alleges that it was not PCSO Johns' "patch". We accept that the claimant had been asked to attend by Sgt Thomason. We find that PCSO Johns did tell the claimant not to attend (although the claimant had, by then, already visited the nursery) and that PCSO Johns did so because the nursery was in his "patch". If it had not been in PCSO Johns' "patch" we consider the claimant would have made this point in his notes sent to Arif Nawaz. We find, on a balance of probabilities, that NBO Rothwell did not tell PCSO Johns to tell the claimant not to attend that nursery.

294. On 7 October 2016, there was an incident when the claimant raised an observation on the radio about a motorbike seen off road. The claimant alleges that PCSO Townsend slighted the claimant's contribution by going on the radio saying there was not the slightest sign of a motor bike in the area. PCSO Townsend wrote in his witness statement that he did not recall the incident. In the claimant's pocket note book, he wrote that PCSO Townsend had said "there is no trace of this motor bike, not even a sound of a bike in the area…" We find that this was said but it was simply an observation that PCSO Townsend could not see or hear a motorbike where they were. We find that this cannot reasonably be understood as slighting the claimant's contribution, although it appears, from the claimant's further notes in his notebook, that he took this comment at the time as being driven by a negative attitude towards him. We find, on a balance of probabilities, that PCSO Townsend's observation to Communications was not a "slight" of the claimant's contribution; it did not suggest the claimant was incorrect in his observation but simply that PCSO Townsend could not see or hear a bike where he was, a few minutes later.

295. Later, on 7 October 2016, the claimant stayed beyond the end of his tour of duty, dealing with a shoplifter at Manchester Fort. The claimant alleges that he was neglected by Sgt Thomason and NBO Rothwell not calling to see if he had finished or needed support. We find that Sgt Thomason and NBO Rothwell were not aware that the claimant was still dealing with a shoplifter beyond his scheduled end of tour of duty. The claimant has suggested that they would have known this by listening to their radios. We accept that they do not listen to their radios all the time and did not hear the claimant's conversations with Communications. The claimant did not PTP Sgt Thomason or NBO Rothwell to ask for assistance. We accept, from entries in his pocket notebook, that the claimant was feeling neglected by his supervisors and considered that this was "one of the subtle methods of racial prejudice".

296. On 8 October 2016, at 3.58 a.m. the claimant sent an email to Inspector Chris Hadfield, copied to Chief Inspector John Ruffle and Sgt Thomason. He asked to discuss concerns with Inspector Hadfield, alleging that there had been "attempts to discredit and discourage while keeping a clique-culture, exclusivity, possessiveness, for instance; which are all signs of immaturity." The claimant relies on this email as a further protected act for later complaints of victimisation. The claimant did not allege in this email that he was suffering direct race discrimination or victimisation because of earlier allegations of discrimination. The email cannot reasonably be understood as making such allegations.

297. CI Ruffle forwarded the email, on 10 October 2016, to Timothy Rudd and Paul Coburn, copied to Sgt Thomason and Inspector Hadfield, asking Timothy Rudd or Paul Coburn to arrange to sit down and discuss this with the claimant. He also asked them to speak with Sgt Thomason separately and provide CI Ruffle with an update. We find that Inspector Hadfield had left his neighbourhood inspector role in May 2016 for a different position and no longer had line management responsibility for the claimant, although there was some confusion about when this occurred and we accept that the claimant was not aware of the change of responsibilities. We accept the evidence of Inspector Hadfield that he did not speak to the claimant about the email or reply to this because it had been allocated to Paul Coburn or Timothy Rudd to deal with.

298. On 10 October 2016, the claimant went on patrol on his own after self-briefing. Sgt Thomason PTP'd the claimant to ask where he was. He then told the claimant that he had asked PCSO Gull to pair up with the claimant. We accept the evidence of Sgt Thomason that it is standard practice for him to PTP officers to find out where they are and to pair them up at times. We accept that it was preferable to pair up PCSOs when possible, to ensure their safety whilst on patrol and to improve their ability to respond to incidents. We accept Sgt Thomason's evidence that he had discovered that PCSO Gull was sitting with two other PCSOs in a patrol car outside McDonalds and he thought it would be a better use of resources for PCSO Gull to leave the other PCSOs and pair up with the claimant. The claimant asked Sgt Thomason why he was being paired up. Whilst we accept that Sgt Thomason believes he gave the claimant an explanation at the time, we doubt, given that Sgt Thomason was busy and this was a normal order, that Sgt Thomason said much more than this was his instruction. This would be more consistent with the claimant wanting to discuss being paired up later on, than if the claimant had been given a detailed explanation at the time. We find it would be normal practice for a sergeant to give an instruction of this nature and to expect that it would be followed, without having a debate with the officer to whom the instruction had been given. PCSO Gull joined the claimant and they continued to patrol together. PCSO Gull went for a refreshment break at one point but the claimant opted to continue patrolling alone without taking a break. Sgt Thomason PTP'd the claimant to ask where he was eating. Sgt Thomason told the claimant that the following day he would be paired up the following day and another day. The claimant said he needed to speak to Sgt Thomason about being paired up. PCSO Gull paired up with the claimant again after her break. They continued patrolling until around 23.20 when they returned to Central Station. There is common ground that the claimant then approached Sgt Thomason to speak to him. There is a dispute as to what was said by the claimant and by Sgt Thomason and whether the claimant behaved aggressively, as alleged by Sgt Thomason, or whether Sgt Thomason spoke and behaved in an angry manner, as alleged by the claimant.

299. The claimant wrote notes about the conversation in his pocket note book some time before the next entry, which was for 4 November (the claimant having a period of sickness absence before this). He wrote what purport to be direct quotes. We are doubtful, however, that the claimant could have entirely accurately recalled and written a detailed account of the conversation, particularly since it is clear from what the claimant wrote, as well as accounts by others, that the claimant was very upset at the time. We do not consider it possible to make findings as to exactly what was said by whom in this conversation. However, we consider we are able to make findings about the gist and tone of the conversation.

300. There is common ground that there was discussion about how long Sgt Thomason had been the claimant's supervisor, although dispute as to who put this question. On either account, the discussion was started with a question from the claimant, either about how long he had been a PCSO on that Division (the claimant's account) or how long Sgt Thomason had been the claimant's supervisor (Sgt Thomason's account). On either account the claimant was raising the issue of how long he had been working under Sgt Thomason's supervision.

301. As to the manner of the claimant and Sgt Thomason, we doubt that either remained entirely calm during the whole exchange. We find that the claimant was upset before he initiated the conversation, having taken exception to being paired up, for what he considered no good reason, and already feeling, as indicated by notes in his pocket book from early occasions that he was being unfairly treated by Sgt Thomason. Sgt Thomason, however, had been giving what he considered to be standard instructions, although he felt, as indicated in his witness statement, that the claimant had been rude and disrespectful to him as his supervisor when the claimant had questioned his instructions to pair up with PCSO Gull. The evidence of other witnesses in the investigation later conducted by Paul Coburn, PCSO Gary Lill, PCSO Gulnaz Ahmed and PC Dave Fenton, was that the claimant's behaviour was rude and disrespectful and that Sgt Thomason was polite. We find, on a balance of probabilities, that the claimant's behaviour from the outset of the exchange appeared confrontational and that Sgt Thomason responded in a polite manner, although, as noted, we doubt that he remained entirely calm throughout when his authority was challenged by the claimant. The claimant alleges that Sgt Thomason shouted at him and wagged his finger at the claimant. Whilst, as previously mentioned, we doubt that either party remained entirely calm, we find, on a balance of probabilities, that Sgt Thomason did not shout or wag his finger. The burden of proof is on the claimant to satisfy us that this occurred and he has not satisfied that burden.

302. It is common ground that the claimant approached PCSO Gull to be a witness to the conversation at one point but Sgt Thomason sent her away (the words used to do so are in dispute). It is common ground that the claimant then went and sat at a computer.

303. It is common ground that Sgt Thomason approached the claimant before the claimant's shift ended at midnight. There is a dispute about what Sgt Thomason said first but common ground that the claimant said to Sgt Thomason that he should put his instruction in writing. This only makes sense if Sgt Thomason had just given him an instruction. We find that Sgt Thomason told the claimant that he would be dealing with an Operation the following day with another PCSO and that the claimant, in response to this, told Sgt Thomason to send him an email. It is common ground that at some point during this exchange, Sgt Thomason told the claimant words to the

effect that he was giving him an order and he would be disciplined if he did not follow the order. We find, since this makes most sense of the conversation, that Sgt Thomason said this after the claimant had told him to put the instruction in writing.

304. In the early hours of the morning on 11 October 2016, the claimant sent an email to Arif Nawaz. He complained about Sgt Thomason's behaviour on 10 October, alleging that it was revenge and victimisation for the email he had sent to Inspector Hadfield on 7 October. The claimant complained about having been PTP'd by Sgt Thomason, alleging that Sgt Thomason did not do this to any other PCSO. He complained about being paired up without explanation. He complained about Sgt Thomason threatening to discipline him if he did not go out with another PCSO as instructed the following day. He complained that Sgt Thomason shouted at him. The claimant wrote: "I sense that something worse is going to happen to me by any of these uniformed persons. I have recently began [sic] fearing for my life. Today it has been very much frightening."

305. The claimant booked off sick in the period 11 October to 4 November 2016.

306. The claimant met Arif Nawaz on 13 October 2016. The claimant prepared detailed notes for this meeting about the events of 10 October 2016 and other events from 13 September 2016 onwards. Amongst other things, the claimant told Arif Nawaz that his mother had died about two months previously. The claimant sent a copy of these notes to Arif Nawaz on 24 October.

307. On 4 November 2016, the claimant submitted a stage 2 grievance. This complained about NBO Rothwell, Sgt Thomason and Inspector Hadfield. It stated that the claimant had raised the matters with Superintendent Nawaz but that no action had, as yet, been taken with respect to the behaviour of Sgt Thomason, which the claimant alleged had caused him to be sick.

308. On 4 November 2016, the claimant returned to work as an attachment in the role of Local Resolution Officer, at his request, away from the direct supervision of Sgt Thomason.

309. Superintendent Nawaz began investigating the grievance but there were delays due to personal reasons.

310. The claimant notified ACAS of a potential claim under the early conciliation procedure on 27 November 2016. The ACAS certificate was issued on 29 November 2016.

311. On 7 December 2016, Superintendent Nawaz allocated the grievance to Inspector Coburn as grievance manager.

312. The claimant presented his claim to the employment tribunal on 8 December 2016.

313. Inspector Coburn knew the claimant slightly from a time when he had worked at ESR. He had not worked directly with the claimant other than when policing a carnival event at Platt Fields.

314. When Inspector Coburn introduced himself to the claimant and explained that he had been tasked with investigating his grievance, the claimant said he

remembered Inspector Coburn from ESR and was happy that he was dealing with his grievance as he understood from other officers that Inspector Coburn had a reputation for being fair and the claimant felt Inspector Coburn would handle the matter well. He also informed Inspector Coburn that, unknown to the Inspector, he had asked to move to his team whilst at ESR as he had seen how the Inspector spoke to people respectfully.

315. Inspector Coburn is a Catholic from Northern Ireland. His partner is of mixed race. Due to his background, he is particularly aware of discrimination.

316. Because of racial undertones in the claimant's grievance, Inspector Coburn referred the matter to the Hate Incident Group.

317. Inspector Coburn spoke to the claimant and each officer the claimant had named in his grievance at length. He also spoke to a number of people who had witnessed incidents referred to in the grievance.

318. The claimant told Inspector Coburn that he had had similar issues with supervisors at ESR and had initiated a grievance whilst at ESR and that he felt the issues related to his ethnicity.

319. The claimant did not show Inspector Coburn the entries in his pocket note book which have been produced in evidence at this hearing.

320. From the evidence of Inspector Coburn, supported by documentary evidence of his investigation, we find that he carried out a thorough and conscientious investigation of the claimant's grievances.

321. Inspector Coburn provided an outcome to the claimant's grievances in a letter dated 17 March 2017, setting out the complaints and his conclusions over 16 pages.

322. In relation to the diversity aspect of the claimant's grievances, Inspector Coburn accepted that the claimant firmly believed that he had been treated differently due to his ethnicity but, based on the information arising from his investigations, Inspector Coburn did not uphold the aspect of the claimant's complaint that he had been victimised by Sgt Thomason and NBO Rothwell on the basis of his ethnicity. Inspector Coburn noted that all the independent officers he had spoken to who had witnessed the various incidents had been clear that no inappropriate language or diversity issues were raised during any of the incidents. Inspector Coburn also wrote:

> *"In an effort to further explore this issue I have also spoken with a cross section of other officers from the NBO team to gain an independent opinion on whether any wider well-being or diversity issues were evident within the NBO team at the time that you raised your concerns. All those spoken to without exception reported that there was an excellent team spirit within the NBO office and that it was a professional, safe, diverse and inclusive place to work."*

323. Inspector Coburn informed the claimant that the grievance had been noted and recorded by the Hate Incident Group and this aspect of the grievance would be reviewed in greater depth by that group.

324. Inspector Coburn dealt with each specific part of the claimant's grievance, giving reasons for his conclusions. He did not uphold any of the grievance. We accept that the reasons given by Inspector Coburn in the outcome letter were the reasons for not upholding each aspect of the grievance.

325. We accept Inspector Coburn's evidence in paragraph 6 of his witness statement as accurately summarising his assessment:

> *"After spending several months looking at the issues the Claimant raised in some detail, reviewing the evidence and speaking to the many witnesses, I formed the professional opinion that the Claimant was an unreliable witness; the Claimant would often give detailed accounts of how he felt during an incident but he was very selective about what factual information he provided to me. I found that after speaking to the witnesses, it appeared that the Claimant had left out very important details and the witnesses' recollections of his behaviour or the behaviour of others often totally contradicted the Claimant's story. There were a number of instances where it was the Claimant's word against the witnesses, and I felt that on these occasions the witnesses were much more convincing and consistent in their accounts and explanations; as a result of the Claimant's omission of large amounts of detail, I did not feel that the Claimant was being honest with me and I felt like he would put a 'spin' on the information he did provide to me to his advantage. Likewise I believe through my investigations that he appeared to have left out large sections of incidents which did not fit in with his version of events."*

326. The claimant has not pointed to any evidence which suggests that Inspector Coburn would have reached a more favourable conclusion if he had been dealing with allegations made by someone in a similar situation but of a different race.

327. On 4 January 2017, the claimant had moved to City Police Station, having requested a temporary move from Central Station whilst his grievance was investigated.

328. The claimant made an application to join British Transport Police (BTP). BTP made a request to the respondent, which was received on 31 January 2017, for integrity vetting checks to be carried out on the claimant. A response to the request was sent on 7 February 2017, within the timescale laid down in a Service Level Agreement. The response confirmed that the claimant had no complaints made against him relating to honesty and integrity and that the claimant had received GMP recruitment vetting and National Security Counter Terrorist Check (CTC) clearance. It detailed a complaint of Misuse of Force Systems against the claimant from September 2014 which was deemed as No Further Action (NFA).

329. On 6 March 2017, BTP requested details of the allegation of Misuse of Force Systems, the reason this was NFA'd and the date when the claimant was granted CTC clearance. The respondent replied the same day, providing the details requested. The email also referred to a public complaint received against the claimant on 19 February 2017 but stated that this was considered a minor complaint and had been passed to divisional management staff to deal with.

330. There is no evidence to suggest that the information the Vetting Unit gave to BTP was not accurate.

331. On 9 March 2017, BTP sent a request to the respondent, asking for confirmation that the claimant was aware of the ongoing live complaint of 19 February 2017, as it was likely they would have to withdraw the claimant's vetting whilst the matter remained live. A further chasing email was sent by BTP on 15 March 2017. On 17 March 2017, a member of the respondent's Force Vetting Unit sent an email to BTP stating that the live complaint had been assessed as a low level complaint and, as such, would not be investigated by the Professional Standards Branch but by a Divisional Commander. The email stated that the claimant had been informed by the Investigating Officer that he was the subject of a minor complaint but that they were trying to ascertain the current position with the complaint. In a further email that day, the member of the Force Vetting Unit wrote that he had spoken to the officer in charge who had informed him that she had made several attempts to contact the claimant with no success but the officer had confirmed she would expedite the enquiry.

332. On 24 March 2017, a member of the Force Vetting Unit wrote to BTP to confirm that he had spoken to the investigating officer who had confirmed that the claimant had been interviewed and the matter was to be dealt with by local resolution.

333. On 23 March 2017, the claimant submitted an appeal against the grievance outcome (a stage 3 grievance).

334. On 28 March 2017, the claimant submitted his resignation, asking for his last day of service to be 23 April 2017. On the resignation form, he gave his main reason for leaving as "fairness at work". He wrote that he was transferring to BTP. The claimant did join BTP after leaving the respondent.

335. On 19 April 2017, the claimant received an email from Liam Boden, informing the claimant that he had been appointed as stage 3 grievance investigator. The claimant informed Mr Boden that he had resigned. He later informed Mr Boden that he did not wish to attend any internal meeting but this did not mean he had dropped his appeal. The tribunal was not shown any outcome to the stage 3 appeal, but this is not the subject of any complaint by the claimant.

336. The claimant presented his claim a considerable time after some of the events about which he complains, particularly the complaints relating to incidents at ESR and the dealing with his grievance about incidents at ESR. We accept the claimant's evidence that he contacted ACAS about a possible claim in February 2016, after his internal grievance had been largely, but not wholly, unsuccessful at stages 2 and 3. However, he did not present a claim at that time because his then trade union, Unison, refused to support his claim and pay the fee. We accept that the claimant could not afford the fees to take proceedings at that time. Although the fees regime was still in force when the claimant did start proceedings, in December 2016, he was able to pay the issue fee at the time because of a loan from a family member. We accept his evidence that the family member had not had the capacity to make a loan earlier. We accept the claimant's evidence that it was the cost of taking proceedings which had stopped him bringing a claim in February 2016.

Submissions

337. Ms Widdett, for the respondent, produced written submissions on the law. We consider that her written submissions accurately summarise the legal principles to be applied. They are consistent with our summary of the relevant law below, so we do not consider it necessary to summarise her submissions on the law.

338. Ms Widdett made oral submissions in relation all the individual complaints made by the claimant. We do not seek to record all her submissions. However, her submissions, in summary, were as follows.

339. Ms Widdett submitted that, in relation to a number of the complaints of direct race discrimination, the claimant had not identified facts from which the tribunal could conclude there was race discrimination. If the burden of proof shifted, she submitted that there was sufficient evidence to show that the treatment was in no way linked with race. She submitted that a lot of issues were not capable of being less favourable treatment.

340. In relation to harassment, Ms Widdett submitted that none of the allegations related to the claimant's race. She submitted there were also issues about whether the conduct was unwarranted and had the requisite effect to satisfy the definition of harassment.

341. In relation to victimisation, she submitted that there were disputes as to whether the documents relied upon gave sufficient information to be understood as allegations of unlawful discrimination. She submitted that the claimant suffered no detriment in respect of many of the matters he complained of.

342. In relation to jurisdiction, Ms Widdett submitted that there were three separate tranches: 1) Sgt Prest and Sgt Mullen-Hurst; 2) Sgt Watson; and 3) Graham Rothwell and Sgt Thomason. Ms Widdett submitted that there was no act continuing over time and it was not just and equitable to extend time.

343. The claimant produced 10 pages of written final submissions. He confirmed that, contrary to the indication at the bottom of the pages, there were 10 pages, rather than 19 pages. The tribunal read the claimant's written submissions and the claimant confirmed that he did not wish to read these out to the tribunal. He added some oral submissions. The claimant also clarified, at the tribunal's request, in his oral submissions, what he relied upon as protected acts for his allegations of victimisation. These have been incorporated into the list of complaints appended to these reasons.

344. The claimant's submissions were, in the main, a chronological account of events. To the extent that they included evidence not previously given by the claimant, we are unable to take account of this. The claimant gave reasons why he considered the respondent had not treated him fairly. He made allegations that some witnesses for the respondent were lying. The claimant submitted that he had been unfairly labelled as aggressive and confrontational. Although the claimant made allegations of racism, his submissions did not address the specific issues the tribunal is required to address in determining whether his complaints are well founded. In particular, he did not identify for the tribunal the matters from which he would argue that the tribunal could infer that he was subjected to unlawful discrimination.

Law

345. Section 13(1) of the Equality Act 2010 (EqA) provides: "A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others". Section 4 lists protected characteristics which include race. "Race" is defined by section 9(1) as including colour, nationality, ethnic or national origins.

346. Section 23(1) EqA provides that "on a comparison of cases for the purposes of section 13….there must be no material difference between the circumstances relating to each case."

347. The relevant parts of section 26 EqA provide:

> "(1) A person (A) harasses another (B) if –
>
> (a) A engages in unwanted conduct related to a relevant protected characteristic, and
>
> (b) The conduct has the purpose or effect of –
>
> (i) violating B's dignity, or
>
> (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.
>
> ……
>
> (4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account –
>
> (a) the perception of B;
>
> (b) the other circumstances of the case;
>
> (c) whether it is reasonable for the conduct to have that effect."

348. Section 27 defines victimisation as follows:

> "(1) A person (A) victimises another person (B) if A subjects B to a detriment because –
>
> (a) B does a protected act, or
>
> *(b)* A believes that B has done, or may do, a protected act.
>
> (2) Each of the following is a protected act –
>
> (a) bringing proceedings under this Act;
>
> (b) giving evidence or information in connection with proceedings under this Act;

> (c) doing any other thing for the purposes of or in connection with this Act;
>
> (d) making an allegation (whether or not express) that A or another person has contravened this Act."

349. Section 39(2) provides, amongst other things, that an employer must not discriminate against an employee by subjecting that employee to a detriment.

350. In *Ministry of Defence v Jeremiah [1980] ICR 13,* Lord Justice Brandon, in the Court of Appeal, thought "any other detriment" meant "putting under a disadvantage". The House of Lords in *Shamoon v Chief Constable of the Royal Ulster Constabulary [2003] ICR 337,* said a sense of grievance which is not justified is not sufficient to constitute a detriment.

351. Conduct which amounts to harassment cannot normally be direct discrimination because section 212(1) provides that, subject to subsection 5 (which deals with situations where the Equality Act disapplies harassment), "detriment" does not include conduct which amounts to harassment.

352. Section 136 provides:

> "(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."

353. The tribunal makes findings of fact, having regard to the normal standard of proof in civil proceedings, which is on a balance of probabilities. A party must prove the facts on which they rely. A claimant must prove he suffered the treatment alleged, not merely assert it.

354. Once the relevant facts are established, the tribunal must apply section 136 in deciding whether there is unlawful discrimination.

355. The Court of Appeal in *Ayodele v CityLink Ltd and another [2017] EWCA Civ 1913,* has reaffirmed that there is an initial burden of proof on the claimant; the claimant must show that there is a prima facie case of discrimination which needs to be answered. The Court of Appeal concluded that previous decisions of the Court of Appeal, such as *Igen Ltd v Wong [2005] IRLR 258,* remained good law and should continue to be followed by courts and tribunals. The interpretation placed on section 136 EqA by the EAT in *Efobi v Royal Mail Group Limited (UKEAT/0203/16)* was wrong and should not be followed.

356. The effect of the authorities is that the tribunal must consider, at the first stage, all the evidence, from whatever source it has come, in deciding whether the claimant has shown that there is a prima facie case of discrimination which needs to be answered.

357. A finding of bad treatment, will not be enough to satisfy the tribunal that a claimant has suffered less favourable treatment: *Essex County Council v Jarrett EAT 0045/15.*

358. A finding of less favourable treatment, without more, is not a sufficient basis for drawing an inference of discrimination at the first stage: *Madarassy v Nomura International plc [2007] ICR 867, CA.* In *Dedman v Commission for Equality and Human Rights and others [2010] EWCA Civ 1279 CA,* Lord Justice Sedley said that "the 'more' which is needed to create a claim requiring an answer need not be a great deal. In some instances it will be furnished by non-response, or an evasive or untruthful answer, to a statutory questionnaire. In other instances it may be furnished by the context in which the act has allegedly occurred."

359. The fact that a claimant has been subjected to unreasonable treatment is not, of itself, sufficient as a basis for an inference of discrimination so as to cause the burden of proof to shift: *Glasgow City Council v Zafar [1998] ICR 120 HL.* In that case, the House of Lords held that a tribunal had not been entitled to infer less favourable treatment on the ground of race from the fact that the employer had acted unreasonably in dismissing the employee.

360. If the claimant establishes facts from which the tribunal could conclude there was unlawful discrimination, the burden passes to the respondent to provide an explanation for its actions. The tribunal must find that there was unlawful discrimination unless the respondent provides an adequate, in the sense of non-discriminatory, explanation for the difference in treatment.

361. Less favourable treatment will be because of the protected characteristic if the characteristic is an "effective cause" of the treatment; it does not need to be the only or even the main cause. The motivation may be conscious or unconscious: *Nagarajan v London Regional Transport [1999] IRLR 572 HL.*

362. In some cases, particularly those involving a hypothetical comparator, it may be appropriate for the tribunal to proceed straight to the second stage, considering the reason why the respondent acted as it did. In *Laing v Manchester City Council [2006] ICR 1519 EAT,* Mr Justice Elias commented: "it might be sensible for a tribunal to go straight to the second stage…where the employee is seeking to compare his treatment with a hypothetical employee. In such cases the question whether there is such a comparator – whether there is a prima facie case – is in practice often inextricably linked to the issue of what is the explanation for the treatment."

363. Section 123 EqA provides that proceedings may not be brought after the end of the period of 3 months starting with the date of the act to which the complaint relates, or such other period as the employment tribunal thinks just and equitable. Section 123(3) provides that conduct extending over a period is to be treated as done at the end of the period.

364. Time limits are extended to take account of time spent in the early conciliation process with ACAS, if notification to ACAS is made within the normal time limit.

Conclusions

365. We are aware that race discrimination is difficult to prove. It is rare that there is clear, overt, evidence of discrimination. It is more likely that, if unlawful discrimination is found to have occurred, this conclusion will be reached by drawing inferences from relevant circumstances than from clear, overt, evidence of discrimination. Subconscious or unconscious motivation for actions tainted by race is probably more common than a conscious intent to discriminate. People may not intend, or even realise, that they are influenced by race in their actions and may be genuinely shocked at the thought that could be treating someone less favourably because of their race. We bring this awareness to the process of reaching conclusions about the complaints brought by the claimant. We consider the matters complained of individually and all together, in assessing whether the claimant has proved facts from which we could conclude that there was unlawful discrimination as alleged.

366. We have noted at various points in our findings of fact, that the claimant held a belief at various times that he was the subject of race discrimination. The officers of the respondent who dealt with his grievances accepted that the claimant had a genuinely held belief that he was being discriminated against because of his race. It is apparent to us from the claimant's evidence at this tribunal hearing that the claimant continues to hold a strong belief that he has been the subject of unlawful race discrimination.

367. For us to reach the conclusion that the claimant has been subjected to unlawful discrimination as alleged, there must be evidence to justify that conclusion, albeit that evidence may be in the form of inferences from relevant circumstances. Belief, or suspicion that there has been unlawful discrimination is not sufficient.

368. As noted in the section on the law above, the initial burden of proof is on the claimant. We must consider whether the claimant has shown that there is a prima facie case of discrimination which needs to be answered i.e. has he proved facts from which we could conclude that there was unlawful discrimination? We take into account all the evidence we have heard, from the respondent as well as the claimant, in carrying out this assessment. Where a factual matter is asserted by the claimant, but disputed by the respondent, the burden is on the claimant to satisfy the tribunal, on a balance of probabilities, that matters occurred as alleged by him. If we have found that facts were as asserted by the claimant, we must consider whether those facts are such that we could conclude, in the absence of a non-discriminatory explanation, that there was unlawful discrimination. If the claimant has proved such facts, we look to the respondent for an explanation for the treatment. If the respondent does not satisfy us that there was a non-discriminatory explanation, we must find unlawful discrimination.

369. We consider the complaints made by the claimant as set out in the agreed list of issues, setting out the complaints in the headings to the sub-sections of these conclusions and using the numbers in that list.

370. There are time limit issues in relation to many of the complaints. We have considered first the merits of the complaints, before returning to the issue of time limits and whether we have jurisdiction to consider the complaints.

Allegation 1 – April and May 2014 - Refusal to allow C to go on independent patrol – Perpetrator Sgt Prest

371. As noted in paragraph 28, new PCSOs have an "in company" period as part of their training after an initial 8 week training period. This is normally 10 weeks but can be increased or decreased at the discretion of the supervisor. The normal "in company" period for the claimant would have been 17 March to 25 May 2014 inclusive (paragraph 54). The claimant asked from as early as his 6th week at ESR whether he could go out on independent patrol. We have found (paragraph 54) that Sgt Prest refused to allow the claimant to go on independent patrol in April and that part of May 2014 which formed part of the normal 10 week "in company" period because she did not consider him ready to patrol on his own. Although there is a discretion on the part of a supervisor to shorten the "in company" period (as there is a discretion to extend it), we found that Sgt Prest had never had a PCSO go on independent patrol before the end of the normal 10 week period (paragraph 54). We found there is nothing unusual or untoward in a supervisor deciding not to allow a new PCSO to patrol independently before the end of the 10 week period.

372. The claimant has never named any PCSOs whose "in company" period has been reduced from 10 weeks.

373. We found that Sgt Prest still had concerns about the claimant's suitability for independent patrol at the end of the "in company" period. We found that Sgt Prest began to have concerns about the claimant's performance around May 2014, when a number of officers approached her about their concerns (paragraph 64).

374. Although the claimant's 10 week period should not have ended until 25 May 2014, the claimant went on independent patrol on 23 May 2014, with, the claimant says, the knowledge of DS Davis, although not, apparently with the prior knowledge or agreement of Sgt Prest, his line manager (paragraph 67). We found that, despite Sgt Prest's reservations about the claimant's competence for independent patrol, she allowed him to continue on independent patrol after 23 May 2014. The claimant continued on independent patrol until instructed by Sgt Mullen-Hurst to be "in company" at a later date until performance concerns could be discussed at a meeting (paragraph 68).

375. In summary, we found that Sgt Prest refused to allow the claimant to go on independent patrol during April and the majority of May 2014. We found the reason for this was that she considered the claimant not ready to patrol on his own during the normal 10 week "in company" period.

376. The claimant brings this as a complaint of harassment or direct race discrimination. As explained in the section on the law, if an act meets the definition of harassment in the Equality Act, it is deemed not to be a detriment for the purposes of direct discrimination. We consider first, therefore, whether the complaint of harassment is well founded. If it is not, we consider whether the complaint of direct race discrimination is well founded.

377. The respondent, through the refusal of Sgt Prest to allow the claimant to go on independent patrol before the end of the normal 10 week "in company" period, engaged in unwanted conduct since the claimant was clearly keen to start independent patrol and was disappointed not to be allowed to do so.

378. The claimant has not proved facts from which we could conclude that the reason Sgt Prest refused his requests to go on independent patrol was related to his race. We have seen no evidence that could link this refusal to race. For this reason, the complaint of harassment cannot succeed. Even if we had found a potential link with race, we would have found that the conduct did not have the purpose or effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. We conclude there is no evidence that the conduct have the purpose of having such an effect. We are not satisfied on the evidence we have heard that it was the claimant's perception at the time that the conduct had this effect, albeit he was disappointed by the refusal. Even if it had been the claimant's perception, we would have found it was not reasonable for the conduct to have that effect, so the definition of harassment would not have been satisfied. It was the norm, rather than the exception, that new PCSOs should patrol "in company" for a minimum of 10 weeks. The refusal to make an exception for the claimant could not, therefore, reasonably be regarded as conduct having the effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for him.

379. If we have jurisdiction to consider the complaint (a matter which we return to in the section on the time limit issue) we conclude that the complaint of harassment is not well founded.

380. We turn now to the alternative complaint of direct race discrimination in relation to this matter.

381. We conclude that the claimant was not subjected to a detriment by not being allowed to patrol independently during the normal 10 week "in company" period. Although the claimant was disappointed by the decision, we are not satisfied that he was put at a disadvantage by the requirement to remain in company. We cannot see how being treated in accordance with normal practice can amount to being subjected to a detriment. For this reason, the complaint of direct discrimination would fail. However, we go on to consider the other parts of the test.

382. The claimant has not proved facts from which we could conclude that the claimant was treated less favourably than Sgt Prest treated or would have treated others in the same material circumstances. The same material circumstances would include being a new PCSO during the normal 10 week "in company" period. There is no evidence to suggest that Sgt Prest would have let any other new PCSO patrol independently during such period. The claimant named "the rest of the staff in the briefing before going on patrol" as actual comparators. These are not appropriate comparators since they were not new PCSOs during the normal 10 week "in company" period. Sgt Prest had no other new PCSO at the time, and had not had a new PCSO for a considerable time before the claimant joined. The claimant did not suggest that Sgt Prest had ever allowed a PCSO to patrol independently earlier than the end of the recommended 10 week period. Although he alleged that other supervisors allowed PCSOs to start independent patrol before the end of the 10 week period, he never named any PCSOs whose "in company" period was reduced from 10 weeks.

383. The claimant has not proved facts from which we could conclude that the refusal was because of his race. There is no evidence from which we could reach such a conclusion. Even if the burden had passed to the respondent, we would have

been satisfied with the respondent's explanation that he was not allowed to patrol independently because Sgt Prest did not consider him ready.

384. For all these reasons, if we have jurisdiction to consider the complaint, we conclude that the complaint of direct race discrimination is not well founded.

Allegation 2 – April and May 2014 - Asking C whether he had done or completed surveys, in front of others, and saying words to the effect "do you realise it's getting closer to the deadline." Perpetrator Sgt Prest.

385. We found that Sgt Prest asked the claimant, as she did other staff, whether they had completed surveys and reminded them of the deadlines for completing surveys (paragraph 57). We found that she asked about this because of the importance of getting the surveys completed; the surveys are surveys required by the Home Office and are very important as they determine matters such as the level of funding given to police forces.

386. The claimant brings this as a complaint of harassment or direct race discrimination.

387. We consider first the complaint of harassment. We conclude that this was unwanted conduct, as the claimant was clearly unhappy about being asked about this. The claimant has not proved facts from which we could conclude that the reason Sgt Prest asked him about surveys was related to race. We have seen no evidence that could link this to race. For this reason, the complaint of harassment cannot succeed. Even if we had found a potential link with race, we would have found that the conduct did not have the purpose or effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. We are not satisfied on the evidence we have heard that this was the claimant's perception at the time. We found that, at the time, his complaint was more about not being allowed to patrol independently and this making it difficult for him to complete the surveys. We found that Sgt Prest did not shout at the claimant when asking about surveys; there was nothing improper about the way she asked the claimant about these. Even if it had been the claimant's perception that his dignity was violated or an intimidating, hostile, degrading, humiliating or offensive environment created for him, we would have found it was not reasonable for the conduct to have that effect, so the definition of harassment would not have been satisfied. Being asked about the surveys, in the same way as other staff were asked, could not reasonably be regarded as conduct having the effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for him.

388. If we have jurisdiction to consider the complaint, we conclude that the complaint of harassment is not well founded.

389. We turn now to the alternative complaint of direct race discrimination in relation to this matter. We conclude that the claimant was not subjected to a detriment by being asked about the surveys; the claimant was treated in the same way as other staff, he was not put at a disadvantage. We conclude that the claimant was not treated less favourably than Sgt Prest treated or would have treated others in the same material circumstances; we found that Sgt Prest asked others about surveys in the same way. The claimant identified actual comparators as being the

rest of the staff in the briefing room before going on patrol. In so far as they were members of staff tasked with carrying out surveys, we conclude they were treated in the same way as the claimant. There is no evidence on the basis of which we could conclude that Sgt Prest asked the claimant about the surveys because of race; she asked other people who were of different races in the same way. Sgt Prest asked about the surveys because it was important they were completed on time. For these reasons, if we have jurisdiction to consider the complaint, we conclude that the complaint of direct race discrimination is not well founded.

Allegation 3 – April and May 2014 – Not making an effort to pair C up with another officer – Perpetrator Sgt Prest

390. We found that Sgt Prest paired the claimant up, during his "in company" period with an experienced PCSO or police officer, usually at the briefing at the start of a shift. There may have been times when there was a delay in the claimant being able to go out, if the person he was paired up with had urgent paperwork to complete before going out on patrol or to whatever task had been assigned. We rejected the claimant's assertion that Sgt Prest did not make an effort to pair him up with another officer during his "in company" period. We found that Sgt Prest made normal efforts to pair the claimant up with another PCSO or police officer as she would do with any PCSO needing to be "in company". The claimant named as actual comparators the rest of the staff in the briefing room before going on patrol. We conclude that these were not appropriate comparators; they were not new PCSOs requiring to be "in company". There was no evidence that anyone else was, or would have been, treated differently. (Paragraph 58). This complaint of direct race discrimination or harassment, therefore, fails because of these findings of fact. If we have jurisdiction to consider the complaints, we conclude that these complaints of harassment or direct race discrimination are not well founded.

Allegation 4 – April and May 2014 – failing to respond to C's emails asking them to let him go on independent patrol and do jobs – Perpetrators Sgt Prest and Inspector Kinrade

391. The claimant sent emails to Sgt Prest on 24 April, 28 April and 9 May 2014 asking to go on independent patrol. There are no emails in reply from Sgt Prest. The claimant emailed Inspector Kinrade about this on 8 May 2014. We found that Inspector Kinrade spoke to Sgt Prest about this but did not reply directly to the claimant's email by email or orally. We found that Inspector Kinrade expected Sgt Prest to deal with the claimant's requests. We found that Sgt Prest did not reply orally to the claimant until after the emails of 8 and 9 May 2014, although her continuing to pair the claimant up for patrol was an implicit rejection of the requests to be allowed to patrol independently. We found that Sgt Prest replied orally to the claimant on or after 9 May 2014, to the claimant's emails asking to go on independent patrol and to do jobs. (Paragraph 56).

392. The claimant brings this as a complaint of harassment or direct race discrimination.

393. We consider first the complaint of harassment. We consider that, in relation to the period before Sgt Prest did reply to the claimant orally and the lack of a direct reply from Inspector Kinrade, this was unwanted conduct. However, we conclude that the claimant has not proved any facts which could lead us to conclude that the

extent to which Sgt Prest and Inspector Kinrade failed to respond to his requests was related to race. There is no evidence which could support a conclusion of a relationship with race. The claimant has not satisfied us that the conduct had the purpose or effect of violating his dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for him. If it did have the requisite effect, it was not reasonable for the conduct to have that effect.

394. For these reasons, if we have jurisdiction to consider this complaint, we conclude that the complaint of harassment is not well founded.

395. We turn now to the alternative complaint of direct race discrimination. We conclude that the claimant was not subjected to a detriment, by the way Sgt Prest and Inspector Kinrade dealt with his requests. The claimant was not put at a disadvantage by this. The claimant has not given any evidence, on the basis of which we could conclude that he suffered detriment. Even if the claimant had suffered detriment, the claimant has not proved facts from which we could conclude that the treatment was less favourable treatment than would have been given to others in the same material circumstances. The claimant relies on hypothetical comparators. There is no evidence to suggest that emails from another new PCSO who wanted to start independent patrol within the 10 week period, with a similar level of competence to the claimant, would have had an earlier reply, in the case of Sgt Prest, or a direct reply, in the case of Inspector Kinrade. There is no evidence, on the basis of which we could conclude that the way Sgt Prest and Kinrade dealt with the claimant's emailed requests was because of race.

396. For these reasons, if we have jurisdiction to consider this complaint, we conclude that the complaint of direct race discrimination is not well founded.

Allegation 5 – April/May 2014 – Stopping C leaving the station independently to collect CCTV – Perpetrator Sgt Prest

397. As noted in paragraph 59, in so far as this relates to a specific occasion, we believe this to relate to an occasion on 8 May 2014 about which the claimant wrote that he could have gone to pick up CCTV footage by Metro/bus but had to leave it as there was no one available to take him there. We found that, in so far as the claimant was prevented from leaving the station independently to collect CCTV, this was because he was still in his "in company" period and there was no one available at the time the claimant wanted to collect the CCTV to accompany the claimant. As previously found, Sgt Prest did not consider the claimant ready, prior to the end of the 10 week period, for independent patrol. Because of this, the claimant was not allowed to go out to do jobs on his own until Sgt Prest considered him ready for independent patrol.

398. The claimant brings this as a complaint of harassment or direct race discrimination.

399. This is effectively the same complaint as the refusal to allow the claimant to go on independent patrol (allegation 1). For the same reasons as given in relation to that allegation, if we have jurisdiction to consider the complaint, we conclude that the complaints of harassment and direct race discrimination in relation to this matter are not well founded.

Allegation 6 – April and May 2014 – Failing to give C jobs when he requested them – Perpetrator Sgt Prest

400. This period almost entirely relates to the 10 week "in company" period. We found that Sgt Prest did not fail to give the claimant jobs which were appropriate to a PCSO "in company". We found that the period of complaint after the "in company" period was too short to draw any conclusions about and the claimant had not given any specific examples about Sgt Prest refusing to give him jobs on the few work days in May after the "in company" period had finished.

401. The claimant brings this as a complaint of harassment or direct race discrimination.

402. We consider first the complaint of harassment. We conclude that this was unwanted conduct in that the claimant wanted to go on independent patrol and have jobs to do on his own. The claimant has failed to prove facts from which we could conclude that the conduct related to race. The claimant has not satisfied us that the conduct had the purpose or effect of violating his dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for him. Alternatively, if it did have that effect on the claimant it was not reasonable to have that effect.

403. If we have jurisdiction to consider this complaint, we conclude, for these reasons, that the complaint of harassment is not well founded.

404. We turn now to the complaint of direct race discrimination. We conclude that the claimant was not subjected to a detriment. The claimant was given jobs which were appropriate to a PCSO "in company". We do not consider that the failure to give the claimant any other type of jobs was subjecting the claimant to a detriment. He was not put at a disadvantage by this conduct. The claimant has not proved facts from which we could conclude that Sgt Prest had treated the claimant less favourably than she treated or would have treated others in the same material circumstances by not giving him any other jobs. The claimant has not proved facts from which we could conclude that the way Sgt Prest allocated jobs to him was because of race.

405. If we have jurisdiction to consider this complaint, we conclude that the complaint of direct race discrimination is not well founded.

Allegation 7 – March, April and May 2014 – Refusing C's requests to go on training: Crime reduction training; Visit to communications; Police vehicle driving – Perpetrator Sgt Prest

406. Sgt Prest refused the claimant's request to go on crime reduction training which had been arranged for a day which was a rest day for the claimant. We found that she refused the request because this would have involved a change of shift and was only a couple of hours training. She considered it not feasible for the claimant to attend the training and then return to the station to complete his working time since none of his relief would have been on duty that day. She tried to make an alternative arrangement. We found no evidence to suggest Sgt Prest would have treated a request from any other PCSO who was due to be on a rest day on the proposed date of training in any other way. (Paragraph 61).

407. We found that Sgt Prest refused the claimant's request to visit the operational control room (OCR) at the time. The claimant was still in his "in company" period and Sgt Prest considered that it would be more beneficial for the claimant to spend his time with someone else, benefiting from their experience. She suggested that they would arrange a visit for a different time but this did not happen whilst Sgt Prest was still managing the claimant; the claimant carried out two visits to OCR after he left her team. (Paragraph 62).

408. We found that Sgt Prest refused a request from the claimant to have police vehicle training. We found that Sgt Prest refused the request because, in accordance with the Chief Constable circular 2009/31, where possible, PCSOs were expected to use alternative methods of transport to driving a motor vehicle when performing their duties. We found that Sgt Prest had not authorised any PCSOs going on driver training since the Chief Constable's circular.

409. The claimant brings this as a complaint of harassment or direct race discrimination.

410. We consider first the complaint of harassment. We conclude that, by refusing the claimant's requests, Sgt Prest was engaging in unwanted conduct. The claimant has not proved any facts from which we could conclude that the refusals were related to race. The claimant has not satisfied us that the refusals had the purpose or effect of violating his dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for him. Alternatively, if it did have this effect, it was not reasonable for it to do so.

411. We turn now to the complaint of direct race discrimination. We are doubtful that the claimant was put at a sufficient disadvantage by this conduct for it to amount to a detriment. In relation to the crime reduction training and the operational control room visit, it was clear that Sgt Prest was not refusing for the claimant ever to have training of this type or to make a visit to OCR. Since it was normal for PCSOs to patrol on foot or by bike, it is difficult to see that the claimant was put at a disadvantage by not having training to drive a police vehicle. If the claimant was subjected to a detriment by the refusal of this training, the claimant has not proved facts from which we could conclude that, by these refusals of training, Sgt Prest was treating the claimant less favourably than she treated or would have treated others in the same material circumstances. The claimant relies for actual comparators in relation to the crime reduction training on PCSOs listed in the email who attended the training. However, these PCSOs were not on the same relief as the claimant. The circumstances were not the same in that the training was not arranged on a rest day when none of their relief would be working. In the alternative, the claimant relies on hypothetical comparators in relation to the refusal of the crime reduction training and relies on hypothetical comparators in relation to the refusal of the visit to communications and police vehicle driving training. The claimant has not pointed to any evidence which could lead us to conclude that Sgt Prest refused the claimant's requests in circumstances where she would have granted them for another PCSO in the same material circumstances. These material circumstances would include, for the OCR visit, that the PCSO had other areas of development which Sgt Prest considered needed addressing in higher priority to visiting OCR. Although it is clear that a visit to OCR was an expected part of a new PCSO's training, since this forms part of the PDP, we found that Sgt Prest had not seen the PDP at the relevant time. In relation to the police vehicle driving, there is no evidence to suggest that Sgt Prest

would have taken a different view with a different PCSO. The claimant has not proved any facts from which we could conclude that the refusals of training were because of race.

412. For these reasons, if we have jurisdiction to consider the complaints, we conclude that the complaints of harassment and direct race discrimination are not well founded.

Allegation 8 – 3 June 2014 – At a briefing, in front of others, shouting C's name and asking him to stay behind – Perpetrator Sgt Prest

413. We found that Sgt Prest asked the claimant to stay behind after a briefing. We found that she did not shout his name in front of others. We found that it was common practice for Sgt Prest to ask a member of her team to stay behind after a briefing if she needed to speak to them.

414. The claimant brings this as a complaint of harassment or direct race discrimination.

415. Since we have found that Sgt Prest did not shout the claimant's name, the complaints of harassment and/or direct race discrimination, in so far as they relate to the allegation that Sgt Prest shouted, fail on their facts. In relation to a complaint that she asked him to stay behind (without shouting), there is no basis on which we could conclude that the request was related to race, for the purposes of the complaint of harassment, or that the request was made because of race, for the purposes of the complaint of direct race discrimination. We found that it was common practice to ask a member of the team to stay behind after a briefing when Sgt Prest needed to speak to them. The complaints of harassment and direct race discrimination fail for these reasons.

416. If we have jurisdiction to consider these complaints, we conclude that the complaints of harassment and direct race discrimination are not well founded.

Allegation 9 – 3 June 2014 – In a meeting just with C, telling C he was not suitable for a PCSO role and was not ready for independent patrol role. Telling C lots of officers had told her he was not ready. When C asked her who, telling C she had a duty of care to protect her officers but not replying when C asked if he was not one of her officers

417. We found that Sgt Prest did not tell the claimant he was not suitable for a PCSO role. We found Sgt Prest did not say the claimant was not ready for independent patrol, although she expressed concern about whether he was ready. We found that Sgt Prest informed the claimant that some other officers had approached her with concerns about the claimant. The claimant wanted to know the names of the officers. We found that Sgt Prest told the claimant that PC Campbell had been one of the officers raising concerns since his officer had agreed that she could be identified. She did not give the name of PCSO Orla Lynch, explaining that this officer did not want to be identified. We found that the claimant did not ask whether he was not one of her officers or a member of her team and Sgt Prest did not fail to reply to such a question. (Para 72).

418. The claimant brings this complaint as one of harassment or direct race discrimination.

419. In large part, we have found that the facts are not as alleged by the claimant. The complaints of harassment and and/or direct race discrimination fail on their facts to the extent that the facts are not as alleged by the claimant.

420. The claimant brings this as a claim of harassment or direct race discrimination.

421. We consider first the complaint of harassment. We conclude that Sgt Prest engaged in unwanted conduct in that the claimant was not happy to hear what she was saying. However, the claimant has not proved any facts from which we could conclude that the conduct was related to race. We conclude that the conduct did not have the purpose or effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. If it did have this effect, it was not reasonable for it to do so and, therefore, the conduct was not harassment within the meaning in the Equality Act.

422. If we have jurisdiction to consider this complaint, therefore, for the reasons given, we conclude that the complaint of harassment is not well founded.

423. We turn now to the allegation of direct race discrimination. We conclude that Sgt Prest did not subject to the claimant to a detriment; the claimant was not put at any disadvantage as a result of what she said to him. The claimant has not proved facts from which we could conclude that Sgt Prest treated the claimant less favourably than she treated would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that Sgt Prest spoke to him as she did because of race.

424. If we have jurisdiction to consider this complaint, therefore, for the reasons given, we conclude that the complaint of direct race discrimination is not well founded.

Allegation 10 – 3 June 2014 – Emailing C in his absence on leave about a job relating to an off road motorbike – Perpetrator Sgt Prest

425. We found that Sgt Prest emailed the claimant as a result of a review of outstanding Fwins which Sgt Prest was carrying out as part of her normal duties. She emailed the claimant because she considered there were lines of enquiry which could have been pursued and there were matters the claimant needed to attend to on his return to work in relation to this incident, as set out in her email. We found that Sgt Prest was aware the claimant was on leave at the time that the actions in the email were not time critical and she sent it to him to pick up on his return to work. She was not expecting him to access his work emails and do anything about this during his leave. We found that Sgt Prest had not raised the incident with the claimant before he started leave because she was not aware of it until she went through the Fwins on 30th of June 2014. (Para 75).

426. The claimant brings this complaint as one of harassment or direct race discrimination.

427. We consider first the complaint of harassment. We conclude that Sgt Prest engaged in unwanted conduct in that the claimant took exception to being emailed about this matter, particularly when he was on leave.

428. The claimant has not pointed to any facts from which we could conclude that Sgt Prest emailing him about this matter when he was on leave related to race. Indeed, we accepted that Sgt Prest emailed any officer about matters arising from her review of the Fwins.

429. We conclude that the conduct did not have the purpose or effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. Alternatively, if it did have this effect, it was not reasonable for it to do so.

430. If we have jurisdiction to consider this complaint, we conclude, for these reasons, that the complaint of harassment is not well founded.

431. We turn now to the complaint of direct race discrimination. We conclude that Sgt Prest did not subject to the claimant to a detriment by emailing him about this matter on 30 June 2014. The claimant was not expected to take any action whilst he was on leave. This was an entirely normal request to deal with matters arising from the Fwin. The claimant was not put at a disadvantage in any way by this normal request. The claimant has not proved facts from which we could conclude that Sgt Prest treated the claimant less favourably than she treated or would have treated others in the same material circumstances. The claimant, in drawing up the agreed list of complaints, identified Ken and Jake as being actual comparators. However, in neither the claimant's evidence nor the claimant's submissions was it made clear how the claimant relied on these as comparators. The claimant has not satisfied us that there were comparators in the same material circumstances i.e. officers who were identified by Sgt Prest in her review of the Fwins as having steps they still needed to take in relation to the incident on the Fwins who were treated more favourably than the claimant. Alternatively, the claimant has not pointed to facts from which we could conclude that hypothetical comparators in the same material circumstances would have been treated more favourably. The claimant has not proved facts from which we could conclude that the reason Sgt Prest sent him the email was because of race.

432. If we have jurisdiction to consider this complaint, for these reasons, we conclude that the complaint of direct race discrimination is not well founded.

[Allegation 11 deleted from list]

Allegation 12 – 8 July 2014 – At a meeting with C, Sgt Prest accusing C of putting a complete address on a bike at a bike marking event on 6 July, having accused him in a telephone call on 7 July of damaging the bike. Sgt Mullen questioning C and elaborating on the importance of putting on the post code. Perpetrators – Sgt Prest and Sgt Mullen-Hurst.

433. We found that the claimant was asked about putting the full address on the bikes rather than simply the postcode and house number as he had been instructed. Sgt Prest asked him about this because a member of the public had phoned up to complain that, at the bike marking event, the claimant had marked the bike with the full address and also that this could simply be wiped off. (Paragraph 82). The allegation is not, itself, about Sgt Prest accusing the claimant on 7 July 2014 of damaging the bike, since the allegation is about what was said and done on 8 July 2014. We did not find it necessary to making a finding as to whether Sgt Prest used

these words when speaking to the claimant, although, had we found it necessary to make a finding, applying the burden of proof, we would not have been satisfied that it had been said. (Para 79).

434. We found that Sgt Mullen-Hurst's role at the meeting was limited to that of a note taker. (Para 82). The allegation, in so far as it relates to Sgt Mullen-Hurst, is not, therefore, made out on the facts.

435. The claimant brings this as a complaint of harassment or direct race discrimination.

436. We consider first the allegation of harassment. We rejected the claimant's evidence that Sgt Prest swore and slammed her fist down on the table at this meeting. We conclude that matters of concern were properly raised with the claimant at the meeting following a complaint by a member of the public. We conclude that Sgt Prest engaged in unwanted conduct, in that the claimant did not like being questioned about what he had done and it being suggested that he had made mistakes. The claimant has not pointed to any facts from which we could conclude that this conduct was related to race. We conclude that the conduct did not have the purpose of violating the claimant's dignity or creating an intimidating hostile degrading humiliating or offensive environment for him. Whilst we accept that the claimant felt humiliated by these matters being raised with him, we conclude that it was not reasonable for the conduct to have the effect and, therefore, we conclude that the conduct did not have the requisite effect within the meaning in the definition of harassment in the Equality Act 2010.

437. If we have jurisdiction to consider this complaint, we conclude, for these reasons, that the complaint of harassment is not well founded.

438. We turn now to the complaint of direct race discrimination. We conclude that the claimant was not subjected to a detriment, in the sense of being put at a disadvantage, by the matter being raised with him. The claimant was not being disciplined. He was properly being questioned about a matter where there was concern and from which he could learn for the future.

439. Even if the claimant was subjected to a detriment, we conclude that the claimant has not proved facts from which we could conclude that Sgt Prest, by raising these matters with the claimant as she did, was treating him less favourably than she treated or would have treated others in the same material circumstances. The claimant relies on Ken Sirr as an actual comparator. Ken Sirr was a police officer who also marked bikes at the event and had instructed the claimant how to mark bikes. It is not clear how the claimant says that Ken Sirr is an appropriate comparator. The claimant simply says in his closing submissions that PC Ken Sirr himself was doing bike marking at the time and the claimant questions why Sgt Prest singled out the claimant. The material circumstances of the claimant and Ken Sirr are not the same; there is no evidence that anyone had made a complaint about the way Ken Sirr had marked bikes or that he had been doing so incorrectly. Alternatively, the claimant relies on a hypothetical comparator. The claimant has not proved facts from which we could conclude that a hypothetical comparator in the same material circumstances would have been treated more favourably.

440. We conclude that the claimant has not proved facts from which we could conclude that Sgt Prest addressed the matter as she did with the claimant because of race.

441. If we have jurisdiction to consider this complaint, for these reasons, we conclude that the complaint of direct race discrimination is not well founded.

Allegation 13 – 9 July 2014 – Sending a further e-mail to C, chasing him up about the job referred to in 30.6.14 email, although C was on leave on 30.6.14 – Perpetrator Sgt Prest

442. We found that, on 9 July 2014, Sgt Prest sent a further email to the claimant about the motorbike incident. She made no reference in the email to the claimant's email of 7 July in reply to her email of 30 June. Sgt Prest wrote that the fwin needed to be addressed immediately due to the time which had now elapsed. She wrote that the matter could not be closed "as it appears to me that there are potential offences that have not been explored and a line of enquiry." She wrote that the claimant needed to approach Ken regarding the fwin and get it sorted. We found that Sgt Prest wrote this email because there were still things which needed to be done in relation to the motorbike incident and the claimant had not, since his return from leave, done what he had been asked to do in Sgt Prest's email of 30 June. (Para 86).

443. The claimant brings this as a complaint of harassment or direct race discrimination.

444. We consider first the allegation of harassment. We conclude that, by chasing the claimant up by email, Sgt Prest engaged in unwanted conduct since the claimant was unhappy about being asked to take further action since he had replied to the previous email and thought he had done all he needed to do.

445. The claimant has not proved facts from which we could conclude that Sgt Prest sending the chasing email related to race.

446. We conclude that the conduct did not have the purpose of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. Sgt Prest was chasing the claimant for action because she considered there were things which still needed to be done. There is no evidence which causes us to believe that the manner of Sgt Prest's approach was different to how it would have been for any other officer who had been asked to take action and had not done so. From the claimant's subsequent email to Sgt Prest he was clearly not happy about receiving a further email. However, we are not satisfied that the conduct had the effect of violating his dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for him. Alternatively, if it did, it was not reasonable for it to have that effect and, therefore, the requirements for harassment are not satisfied.

447. If we have jurisdiction to deal with this complaint, we conclude, for these reasons, that the complaint of harassment is not well founded.

448. We turn now to the complaint of direct race discrimination. We conclude that the claimant was not subjected to a detriment. He was not put at a disadvantage by being sent this email. The claimant has not proved facts from which we can conclude

that Sgt Prest treated the claimant less favourably than she treated or would have treated others in the same material circumstances by sending the claimant the follow-up email. The claimant relies on Ken and Jake as actual comparators but we have not heard any evidence that suggests they were in the same position but not sent such an email. In the alternative, the claimant relies on hypothetical comparators. The claimant has not pointed to any evidence which would allow us to conclude that the claimant was treated less favourably by Sgt Prest by being sent this email than someone else who had outstanding work and been sent a previous email about this would have been treated. The claimant has not proved facts from which we could conclude that the email was sent because of race.

449. If we have jurisdiction to deal with this complaint, we conclude, for these reasons that the complaint of direct race discrimination is not well founded.

Allegation 14 – 19 July 2014 – Refusing to review C's PDP, saying it was incomplete, although it was a document to be completed over a period – Perpetrator Sgt Prest.

450. We found that the claimant did not give Sgt Prest his PDP on 19 July. We found that the claimant had not been asking Sgt Prest to look at the parts of the PDP which he had completed and was having his request refused, prior to this date. We found that the claimant was more likely to have left his PDP for Sgt Prest to look at in August rather than July. We considered it possible that the claimant left it on Sgt Prest's desk at a time when she was not there and she never became aware of it. (Para 100).

451. The claimant brings this complaint as claims of direct race discrimination and victimisation. These complaints fail on the basis that the facts as asserted by the claimant have not been proved. However, in relation to the complaint of victimisation, this would also fail on the basis that there was no protected act. The claimant relied on the email sent by him on 12 July 2014 to Sgt Prest as the protected act. However, we found there was nothing in this email which would lead a reader to understand that he was alleging that he was treated differently due to race. There was no express reference to unlawful discrimination and nothing which could reasonably be understood as making a complaint of unlawful discrimination. (Para 91).

452. If we have jurisdiction to consider this complaint, for these reasons, we conclude that the complaints of direct race discrimination and victimisation are not well founded.

Allegation 15 – 23 July 2014 – Not listening to C's concerns about Sgt Prest and defending her, saying "she is one of the best Sergeants, she is professional" – Perpetrator Inspector Kinrade

453. We found that Inspector Kinrade did listen to the claimant and took his concerns seriously. We considered this was an example of the claimant confusing not listening to him with not agreeing with him. It was common ground that Inspector Kinrade referred to Sgt Prest as professional. (Para 106).

454. The claimant brings this as a complaint of direct race discrimination. We conclude that, to the extent the allegation is about not listening to the claimant's concerns, this complaint fails on the facts. We conclude that the claimant was not

subjected to a detriment by Inspector Kinrade describing Sgt Prest as "professional". He was not put at any disadvantage by Inspector Kinrade describing Sgt Prest in these terms. The claimant has also not proved facts from which we could conclude that he was less favourably treated than Inspector Kinrade would have treated others in the same material circumstances and has not proved facts from which we could conclude that Inspector Kinrade spoke about Sgt Prest as he did because of race.

455. If we have jurisdiction to consider this complaint, we conclude, for these reasons, that the complaint of direct race discrimination is not well founded.

Allegation 16 – 31 July 2014 – Recording "psychological disorder" as the reason for C's absence when the GP note said "work related stress" – Perpetrator Sgt Prest

456. We found that Sgt Prest recorded the reason for the claimant's absence on the respondents DMS system with the absence code of "psychological disorder" because she was required to choose from a drop-down menu and this was the closest category to work-related stress. The system uses the Dorset 12 categories required by the Home Office. (Para 105).

457. The claimant brings this complaint as one of direct race discrimination. This is a complaint where we consider it appropriate to move straight to stage 2. Even if the burden of proof passed to the respondent, the respondent has provided us with an adequate, non-discriminatory explanation for Sgt Prest's actions. It is clear that the reason why Sgt Prest acted as she did was because she was constrained by the categories on the system. It is clear that this was nothing to do with race. We conclude, therefore, that the complaint of direct race discrimination is not well founded, if we have jurisdiction to consider the complaint.

Allegation 17 – 31 July 2014 – Writing information that was not discussed in the interview (as detailed in C's email to Sgt Mullen-Hurst) – Perpetrator Sgt Mullen-Hurst

458. Although the claimant gave a date of 31 July for this allegation, it appears that it relates to a letter Sgt Mullen-Hurst wrote on 6 August 2014, confirming the outcome of their discussions on the 31 July 2014. We found that Sgt Mullen-Hurst's letter correctly reflected what had been discussed at the return to work interview on 31 July. This included a finding that Sgt Mullen-Hurst spoke about requirements to improve and maintain the claimant's attendance to within the Force target and that his current sickness was rated "Amber". This was reflecting the respondent's policy on sickness absence. We made an alternative finding that, if we were wrong in finding that Sgt Mullen-Hurst mentioned "Amber" at the return to work interview, she included the paragraph about this in her letter of 6 August 2014 because this was a standard section to be completed as appropriate and included in a letter following a return to work interview.

459. The claimant brings this as a complaint of direct race discrimination. We conclude that this complaint fails because the claimant has not proved the facts he seeks to rely on. If we have jurisdiction to consider the complaint, for this reason, we conclude that the complaint of direct race discrimination is not well founded.

Allegation 18 – 1 August 2014 – In the office, in front of others, shouting at C about not having done various jobs and his opus page having gone red, not letting C explain – Perpetrator Sgt Prest

460. We found that, after the morning briefing on 1 August 2014, Sgt Prest approached the claimant and spoke about a red opus action. We found that Sgt Prest did not shout at the claimant and did not slam her fist on the table. (Paras 117-118).

461. We found that Sgt Prest did not prevent the claimant from explaining (Para 117).

462. The claimant brings this claim as complaints of harassment, direct race discrimination, and victimisation.

463. We consider first the allegation of harassment. The facts we have found are not as alleged by the claimant. The complaint, therefore, fails on its facts. However, we consider whether the conduct of Sgt Prest as found by us amounts to harassment. We conclude that Sgt Prest engaged in unwanted conduct, since the claimant was clearly unhappy about being challenged in this way. We conclude that the claimant has not proved facts from which we could conclude that the way Sgt Prest questioned the claimant related to race. There is no evidence which would allow us to conclude that Sgt Prest would not have approached another officer of a different race who had an outstanding red opus action in the same way. There is no evidence which suggests any other relationship between Sgt Prest's conduct and race. We conclude that the conduct of Sgt Prest, as found by us, did not have purpose or effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. If it did have this effect, it was not reasonable for it to do so. There was nothing out of the ordinary in the claimant's superior officer questioning him about an outstanding action in the way that she did.

464. We consider now the complaint of direct race discrimination. Since the facts we found were not as alleged by the claimant, this complaint failed on its facts. However, we consider whether the conduct of Sgt Prest, found by us, amounts to direct race discrimination. We conclude that the claimant was not subjected to a detriment by the conduct of Sgt Prest. He was not put at any disadvantage by Sgt Prest questioning him about the outstanding action. In addition, the claimant has not proved facts from which we could conclude that Sgt Prest treated the claimant less favourably than she treated or would have treated others in the same material circumstances. The claimant had identified PCSO Chee Chan as an actual comparator. The claimant has not explained in his witness statement or in his submissions how he says that PCSO Chan was an appropriate comparator. We conclude that PCSO Chan was not an appropriate comparator. We have no evidence that PCSO Chan had outstanding actions and was not spoken to about these. In addition, the claimant has not proved any facts from which we could conclude that Sgt Prest spoke to the claimant as she did because of race. If the burden of proof had passed to the respondent, we would have been satisfied that Sgt Prest spoke to the claimant as she did because he had an outstanding red opus action which needed attention.

465. We now turn to the allegation of victimisation. The claimant relies on three protected acts: the email to Sgt Prest of 12 July 2014, an email of 22 July 2014 to Inspector Kinrade and the meeting with Inspector Kinrade on 23 July 2014. As we concluded when considering allegation 14, we conclude that the email of 12 July 2014 was not a protected act. We found that there was nothing in the email of 22 July 2014 which could reasonably be understood as making an allegation of unlawful race discrimination. (Para 103). We conclude, therefore, that this email was not a protected act. In relation to the meeting on 23 July 2014, we found that there was nothing said at the meeting that could reasonably be understood as an allegation of unlawful discrimination. (Para 107). We conclude, therefore, that there was no protected act at the meeting on 23 July 2014. Since we have found there were no protected acts, the complaint of victimisation must fail for this reason as well as the facts not being as alleged by the claimant. Additionally, we would have found that the claimant was not subjected to a detriment by Sgt Prest's actions and the claimant did not prove any facts from which we could conclude that Sgt Prest's conduct was because the claimant had written those emails or because of anything said at the meeting on 23 July 2014.

466. If we have jurisdiction to consider these complaints, we conclude, for these reasons, that the complaints of harassment, direct race discrimination, and victimisation are not well founded.

Allegation 19 – 4 August 2014 – Not submitting C's completed grievance form to HR – Perpetrator Inspector David Sutcliffe

467. We found that Inspector Sutcliffe sought advice from HR on how he should deal with the claimant's grievance. The advice he received, which he later found out was wrong, was that he could try again with the stage one resolution as some of the events the claimant mentioned were after his initial discussion. We found that he did not forward the grievance to HR to deal with as a stage 2 grievance because of this advice. (Para 129).

468. The claimant brings this claim as direct race discrimination and victimisation. This is a complaint where it is appropriate to move straight to the second stage. If the claimant had established a prima facie case of discrimination, we would be satisfied that the respondent provided an adequate, non-discriminatory explanation. Because we have found that the reason Inspector Sutcliffe did not submit the grievance form to HR was because of the HR advice he had received, the complaints of direct race discrimination and victimisation must fail. There is no link between what Inspector Sutcliffe did and race or the matters relied on as protected acts.

469. In addition, in relation to the complaint of victimisation, we conclude that there were no protected acts so the complaints of victimisation would fail for that reason. We concluded, in relation to allegation 18, that three of the matters relied on in this allegation were not protected acts. In addition to those three matters, the claimant also relied for allegation 19 on the conversation with Inspector Sutcliffe on 31 July 2014. We found that there was nothing said in this conversation which could reasonably be understood as making an allegation of unlawful discrimination. (Para 116). We conclude, therefore, that this was not a protected act.

470. If we have jurisdiction to consider this complaint, we conclude, therefore, for these reasons that the complaints of direct race discrimination and victimisation are not well founded.

Allegation 20 – 10 August 2014 – Not listening to C's concerns. Telling C what other sergeants thought about C. Telling C to check "your mannerism". Defending Jacqui Prest, saying "she is professional."

471. We found that Inspector Sutcliffe did listen to the claimant's concerns and responded to these. We found that the claimant was equating not agreeing with him with not listening to him. (Para 133). We found that Inspector Sutcliffe spoke about what other sergeants thought about Sgt Prest rather than about the claimant. We found that Inspector Sutcliffe did not say that the claimant should check "your mannerism" but found that Inspector Sutcliffe gave advice to the claimant to reflect on his own behaviour in interacting with others. (Para 132). We found it likely that Inspector Sutcliffe did say that Sgt Prest was professional because he did consider her to be professional.

472. The claimant brings this as a complaint of direct race discrimination and victimisation.

473. We deal first with the allegation of direct race discrimination. To the extent that we have found the facts as alleged by the claimant (which is only in relation to giving advice to the claimant to reflect on his own behaviour and saying that Sgt Prest was professional), we conclude that Inspector Sutcliffe did not subject the claimant to a detriment. The claimant was not put at a disadvantage. The claimant has not proved facts from which we could conclude that Inspector Sutcliffe treated the claimant less favourably than he treated or would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that Inspector Sutcliffe treated the claimant as he did because of race. If the burden had passed to the respondent, we would have found that Inspector Sutcliffe acted as he did because he considered the claimant had contributed to difficulties in the relationship with Sgt Prest by his own behaviour, in particular, by the emails the claimant sent to her. We would have found that he described Sgt Prest as professional because he believed that to be the case.

474. In relation to the allegation of victimisation, the claimant relies on the same matters as protected acts as for allegation 19. For the reasons we gave in relation to allegation 19, we conclude that these were not protected acts. The complaints of victimisation must, therefore, fail for this reason. In addition, the complaint of victimisation would fail because we conclude that the claimant was not subjected to a detriment.

475. If we have jurisdiction to consider these complaints, we conclude, for the reasons given, that the complaints of direct race discrimination and victimisation are not well founded.

Allegation 21 – 14 August 2014 – Calling C and shouting at him that it was not acceptable that he was collecting CCTV, although tasked to do this, and he should come straight back to the station – Perpetrator Sgt Mullen-Hurst.

476. On 14 August 2014, the claimant had set off to collect CCTV footage from Stockport Stagecoach bus depot. He had self-briefed, although this was a day when PCSOs on the claimant's relief would normally be expected to attend the briefing. He did not tell Sgt Mullen-Hurst or any other sergeant why he was not attending the briefing or where he was going. When he was on the bus on the way to Stockport, Sgt Mullen-Hurst PTP'd him to ask where he was. We found that Sgt Mullen-Hurst asked why he was not in the briefing. She told the claimant that it was completely unacceptable to go off without attending his briefing or telling his sergeant his location. She told him to get the CCTV and come back and that she needed to sit down to have a meeting with him. We found she did not tell him to come straight back to the station. We found that Sgt Mullen-Hurst did not shout at the claimant. (Paras 141-142).

477. The claimant brings this as a complaint of direct race discrimination and harassment and victimisation.

478. We consider first the complaint of harassment. We conclude that Sgt Mullen-Hurst engaged in unwanted conduct in that the claimant was unhappy about being challenged about self-briefing when he should have been in a briefing and going off without notifying a sergeant about his whereabouts. The claimant has not proved any facts from which we could conclude that Sgt Mullen-Hurst's conduct related to race. It was clear that she acted as she did because she did not know where the claimant was and that he should not have left without attending the briefing or notifying a sergeant as to why he was not attending the briefing. We conclude that the conduct did not have the purpose or effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. It is clear that Sgt Mullen Hurst's conduct did not have this purpose. If it did have the requisite effect, it was not reasonable for it to do so because this was a normal management instruction and there was nothing untoward about the way it was given. The definition of harassment in the Equality Act is, therefore, not met.

479. We turn now to the complaint of direct race discrimination. We conclude that the claimant was not subjected to a detriment in that he was not put at any disadvantage by Sgt Mullen-Hurst's conduct. The claimant has not proved facts from which we could conclude that Sgt Mullen-Hurst treated the claimant less favourably than she treated or would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that Sgt Mullen-Hurst acted as she did because of race. If the burden of proof had passed to the respondent, we would have been satisfied that Sgt Mullen-Hurst acted as she did for a non-discriminatory reason, being the claimant's failure to attend the briefing when he should have attended the briefing and his failure to notify a sergeant about his whereabouts.

480. We turn now to the complaint of victimisation. The claimant relies on the same alleged protected acts as for allegation 19. For the reasons given in relation to that allegation, we concluded that none of the matters relied upon were protected acts within the meaning in the Equality Act. For this reason, the complaints of victimisation would fail. In addition, the complaints of victimisation would fail as we conclude that Sgt Mullen-Hurst did not subject the claimant to a detriment. In addition, the claimant has not proved facts from which we could conclude that Sgt Mullen-Hurst acted as she did because the claimant had done one of the matters relied upon as protected acts. In particular, we found that Sgt Mullen-Hurst did not

know as at 14 August 2014, that the claimant had attempted to submit a stage 2 grievance. (Para 140).

481. If we have jurisdiction to consider these complaints, for these reasons, we conclude that the complaints of harassment, direct race discrimination and victimisation are not well founded.

Allegation 22 – Keeping C in the station for more than 5 hours, doing nothing, not allowing him to go on independent patrol. Telling him he would be paired up from now on – Perpetrator Sgt Mullen-Hurst.

482. This allegation relates to the period when the claimant had returned to the station after collecting the CCTV. Sgt Mullen-Hurst spoke to the claimant. She wanted to have a discussion with the claimant about his performance but the claimant refused to do this without a representative present. Sgt Mullen-Hurst then gave the claimant an instruction that he had to go out in company until they had the meeting about performance. The claimant then said he would go and deal with the CCTV. Sgt Mullen-Hurst told him he could have his refreshment break. We found that Sgt Mullen-Hurst was waiting for the claimant to come back to her after having his break and dealing with the CCTV. We rejected the assertion that the claimant was kept in the station for more than five hours doing nothing. At the latest, the meeting with Sgt Mullen Hurst ended at 19.40 when the claimant recorded his refreshment break starting. However, we thought it unlikely that the meeting had taken as long as an hour, in which case, the claimant left the meeting earlier than 19.40. We found that, since the claimant did not come back to Sgt Mullen Hurst, she approached him around 10:30 p.m. There was, therefore, at most, three hours since they had last spoken and in that time, the claimant had had his refreshment break and was also meant to have dealt with the CCTV. He was not, therefore, being kept in the station doing nothing. (Paras 143-148).

483. The claimant brings this as a complaint of harassment, direct race discrimination and victimisation.

484. In relation to the allegation that Sgt Mullen-Hurst kept the claimant in the station for more than five hours doing nothing, this allegation fails on its facts. We consider, therefore, whether the instruction that the claimant should be in company until the performance meeting was an act of harassment, direct race discrimination and/or victimisation.

485. We consider first the allegation of harassment. We conclude that the instruction was unwanted conduct is the claimant preferred to go out alone rather than being paired up. The claimant has not proved any facts from which we could conclude that the conduct was related to race. Had the burden of proof passed to the respondent, we would have been satisfied that the instruction was given because Sgt Mullen-Hurst had genuine concerns about the claimant's performance. We conclude that the conduct did not have the purpose or effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. Sgt Mullen-Hurst's conduct clearly did not have such a purpose. Whilst the claimant may have considered this to create a degrading or humiliating environment for him, it was not reasonable for this to have this effect so the definition of harassment in the Equality Act is not satisfied.

486. We turn now to the complaint of direct race discrimination. We conclude that the claimant was not subjected to a detriment. He was not put at a disadvantage. However, even if we were wrong on that, the claim would fail for other reasons. The claimant has not proved facts from which we could conclude that Sgt Mullen Hurst treated the claimant less favourably than she treated or would have treated others in the same material circumstances and that the treatment was because of race. The material circumstances must include having concerns about the officer's performance and wishing to discuss performance issues with that officer but the officer refusing to do so at the time because he did not have a representative present. There is no basis on which we could conclude that Sgt Mullen-Hurst would have treated another officer in the same material circumstances but of a different race more favourably.

487. We turn now to the complaint of victimisation. The claimant relies on the same alleged protected acts as for allegation 19. For the same reasons, we conclude that these were not protected acts within the meaning in the Equality Act. The complaint of victimisation fails for this reason. In addition, the complaint would fail because we conclude that Sgt Mullen-Hurst did not subject to the claimant to a detriment. In addition, we conclude that Sgt Mullen-Hurst did not act as she did because of any of the matters relied upon by the claimant as protected acts.

488. If we have jurisdiction to consider these complaints, for these reasons, we conclude that the complaints of harassment, direct race discrimination and victimisation are not well founded.

Allegation 23 – 14 August 2014 – Raising his voice to C, putting his finger to his head and saying "do you understand instructions?" Saying to C: "Go and ask your wife to explain to you." Telling C to go on patrol to Chorlton at 11.10 p.m., with no task given, although the shift was due to end at 11.30 and he would not be able to get to Chorlton and back in the time remaining. Telling C to remain in the station to the end of duty when C refused to go on patrol – Perpetrator Inspector Paul Kinrade.

489. This allegation relates to the same day as allegations 21 and 22. The background to allegation 23 is as follows. After Sgt Mullen-Hurst approached the claimant around 10.30 p.m., and confirmed that he had finished dealing with the CCTV, she told him to go out with PCSO Chee Chan. We found that PCSO Chan was patrolling in a nearby burglary hotspot. However, it appeared that the claimant was assuming that he was being asked to go to Chorlton to patrol, which was much further away. The claimant refused to go out on patrol with PCSO Chan. He asked to speak to Inspector Kinrade because he was unhappy about the order he was being given. A discussion with Inspector Kinrade followed. We found that Inspector Kinrade did not put his finger to his temple or shout at the claimant. We found that Inspector Kinrade made some reference to the claimant talking to his wife but that he did not tell the claimant to get his wife to explain things to him. We considered that the claimant had put a gloss on what was said over time, whether knowingly or not. Inspector Kinrade was telling the claimant that he had to obey an order from a sergeant. The order was to go out with PCSO Chan. The order was not, as alleged, to go on patrol to Chorlton with no task given. However, it appears there may have been a misunderstanding about the order. The order was to patrol with PCSO Chan, who was patrolling a burglary hotspot very nearby. As noted above, however, it appears the claimant assumed he was being asked to go to Chorlton. We found that, when the claimant continued to refuse to patrol with PCSO Chan, Inspector Kinrade

told the claimant to go back to the office and finish any administrative tasks until the end of his tour of duty, which was midnight. (Paras 148-151).

490. The claimant brings this as a complaint of harassment, direct race discrimination and victimisation.

491. We consider the complaints in relation to the facts as we have found them.

492. We consider first the complaint of harassment. We conclude that Inspector Kinrade engaged in unwanted conduct in that the claimant was unhappy about the conversation he had with him and the order he was being given. However, the claimant has not proved any facts from which we could conclude that Inspector Kinrade's conduct was related to race. We conclude that the conduct did not have the purpose of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. We accept that the claimant may have felt it had that effect but conclude it was not reasonable for it to do so. Inspector Kinrade was acting in a normal manner as a superior officer instructing the claimant to carry out a lawful order given by a sergeant.

493. We turn now to the complaint of direct race discrimination. We conclude that Inspector Kinrade did not subject to the claimant to a detriment in this conversation. We conclude that the claimant has not proved facts from which we could conclude that Inspector Kinrade treated the claimant less favourably than he treated or would have treated others in the same material circumstances. The claimant has also not proved facts from which we could conclude that the way inspector Kinrade acted was because of race.

494. We turn now to the complaint of victimisation. The claimant relies on the same alleged protected acts as for allegation 19. For the same reasons, we conclude that these were not protected acts within the meaning in the Equality Act. The complaint of victimisation fails for this reason. In addition, the complaint would fail because we conclude that Inspector Kinrade did not subject to the claimant to a detriment. In addition, we conclude that Inspector Kinrade did not act as he did because of any of the matters relied upon by the claimant as protected acts.

495. If we have jurisdiction to consider these complaints, we conclude, for these reasons, that the complaints of harassment, direct race discrimination and victimisation are not well founded.

Allegation 24 – Sending an email to HR, copied to others, complaining about C's performance, although she was not C's line manager and no performance issue had been brought to C's attention. Collusion by Sgt Prest. Perpetrator – Sgt Mullen-Hurst and Sgt Prest.

496. This allegation relates to an email sent by Sgt Mullen-Hurst at 23.41 on 14 August 2014. The email was sent to the claimant and copied to Inspectors Kinrade and Sutcliffe and to HR. The email said that Sgt Mullen-Hurst would like to have a meeting with the claimant about performance matters, to discuss looking at a supportive action plan to aid his development. We found that Sgt Mullen-Hurst sent this email because she genuinely considered that there were performance issues which needed to be addressed with the claimant. She had been asked by Inspector Sutcliffe to deal with these matters. We found that Sgt Prest had no involvement in

drafting or sending this email. (Paras 152-153). Sgt Mullen-Hurst had attempted to speak to the claimant about performance issues on 14 August but the claimant had refused to do so without a representative present.

497. The claimant brings this as an allegation of direct race discrimination, harassment and victimisation.

498. As far as the allegation relates to Sgt Prest, the complaints fail on the facts since we found no collusion on the part of Sgt Prest.

499. We consider first the allegation of harassment. We conclude that this was unwanted conduct as the claimant did not feel there was any performance issue which needed to be addressed. However, the claimant has not proved facts from which we could conclude that Sgt Mullen-Hurst writing this letter was related to race. We conclude that the conduct did not have the purpose or effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. This was certainly not the purpose of Sgt Mullen-Hurst's letter. If the letter had the effect on the claimant of creating an intimidating, hostile, degrading, humiliating or offensive environment for him, it was not reasonable for it to have this effect so the definition of harassment is not satisfied.

500. We turn now to the complaint of direct race discrimination. We conclude that the claimant was not subjected to a detriment by being sent this letter; he was not put at any disadvantage. The claimant has not proved facts from which we could conclude that Sgt Mullen-Hurst treated the claimant less favourably than she treated or would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that Sgt Mullen-Hurst wrote this letter because of race. If the burden of proof had passed to the respondent, we would have concluded that the respondent had provided a satisfactory non-discriminatory explanation for writing the letter. Sgt Mullen-Hurst had genuine concerns about the claimant's performance. He had refused to discuss the matter with her on 14 August without a representative present. Sgt Mullen-Hurst had been asked to deal with the matter by Inspector Sutcliffe.

501. We turn to the allegation of victimisation. The claimant relies on the same alleged protected acts as for allegation 19. For the reasons given in relation to that allegation, we conclude that none of the matters relied upon are protected acts within the meaning in the Equality Act. For this reason, the complaints of victimisation fail. In addition, the complaint fails because we conclude that the respondent did not subject the claimant to a detriment and the claimant has not proved facts from which we could conclude that Sgt Mullen-Hurst acted as she did because of any of the matters relied on as protected acts.

502. If we have jurisdiction to consider these complaints, for these reasons, we conclude that complaints of harassment, direct race discrimination and victimisation are not well founded.

Allegation 25 – 20 August 2014 – Trying to coerce C into signing a log of incidents and an action plan. Collusion by other officers in drawing up action plan. Perpetrator – Sgt Mullen-Hurst, Sgt Prest, Inspector Kinrade, Chief Inspector McFarlane.

503. The claimant's senior officers had been considering drawing up an action plan for the claimant before his period of sickness absence in July 2014. Inspector Sutcliffe had decided that no plan should be implemented immediately on the claimant's return from sick leave due to "work stress" because this would potentially further add to any stress. (Paras 122). Sgt Mullen-Hurst was compiling the action plan by 13 August 2014 (Para 138). The decision to subject the claimant to a three month development plan was agreed by Inspector Kinrade and Chief Inspector Stephen McFarlane (para 165). We found that Sgt Mullen-Hurst was solely responsible for drafting the plan. (Para 166). Sgt Prest provided Sgt Mullen-Hurst with some information to assist her in drawing up the proposed action plan. Inspector Kinrade reviewed the plan and was satisfied that it was fair, achievable, time bound and relevant, with its ultimate aim being to prepare the claimant for independent patrol. (Para 166).

504. Sgt Mullen-Hurst had tried to arrange a meeting to discuss the plan at a time when the claimant could have a representative present. The meeting had been arranged for 20 August 2014 at 2 p.m. However, on the day, the claimant had not been able to arrange a representative. Chief Inspector McFarlane told Sgt Mullen-Hurst to inform the claimant that it was a lawful order to sit down with her and Sgt Swindles to discuss the action plan. He said to tell the claimant that the action plan would be given that day and, by all means, it could be revisited at a later date with Unison. Sgt Mullen-Hurst and Sgt Swindles met with the claimant in the evening of 20 August 2014. We found that Sgt Mullen-Hurst did not tell the claimant when she called him back to the station that the meeting was to be about the action plan. She told the claimant on the radio that she had spoken to Chief Inspector McFarlane about the claimant's request to move groups and that she needed to speak to him about this. (Para 168).

505. At the meeting, Sgt Mullen-Hurst went through notes which she had prepared for the meeting. She informed the claimant that Chief Inspector McFarlane had advised that they could not wait until the following week for a Unison representative to explain the reasons behind the supportive action plan so the claimant had to sit down with her and Sgt Swindles. She informed the claimant that he could have another meeting with a Unison representative present when they returned from leave if the claimant wanted. Sgt Mullen-Hurst went through eight matters which had caused concern. Sgt Mullen-Hurst took the claimant through the action plan and invited him to sign it. The claimant refused to sign the plan although Sgt Mullen-Hurst understood that he intended to sign it the following day. Sgt Mullen-Hurst and Sgt Swindles signed the plan on 20 August. The claimant never signed the plan. (Para 169).

506. The involvement of the various named "perpetrators" is as set out in our findings of fact summarised above. At the meeting, it was Sgt Mullen-Hurst and Sgt Swindles who invited the claimant to sign the plan. They did not coerce him into signing anything and he did not sign the action plan. Sgt Mullen-Hurst drew up the plan including information provided by Sgt Prest. Inspector Kinrade and Chief Inspector McFarlane approved the decision to implement an action plan and Inspector Kinrade reviewed the plan and approved it. We would not describe this involvement of these officers as "collusion" in drawing up the action plan. Collusion has negative connotations which we do not consider are applicable in these circumstances. The action plan was drawn up because of concerns about the

claimant's performance as a means of assisting him to develop in his role as a PCSO.

507. As noted by Chief Superintendent Mary Doyle, a development plan (or action plan in the terminology used at the time) should be based on consultation and collaboration with the individual concerned rather than it being a one-sided activity. In this case, the plan was drawn up without the claimant's input, although it was to be discussed with him. We found that Sgt Mullen-Hurst drew up the plan, without input from the claimant because of the difficulty in trying to have a discussion with the claimant about this, which he refused to do without a representative present. (Para 167).

508. The claimant brings this as complaints of harassment, direct race discrimination and victimisation.

509. We consider first the allegation of harassment. We conclude that the respondent engaged in unwanted conduct in drawing up the action plan and inviting the claimant to sign this. The claimant did not agree that there were any performance issues and was unhappy about the implementation of a plan. However, the claimant has not proved facts from which we could conclude that the drawing up of the plan and request for the claimant to sign this was related to race. If, as alleged by the claimant's trade union representative in correspondence, the way that the plan was drawn up and implemented did breach an agreement with Unison, we do not consider this gives rise to any inference that the respondent's actions were related to race. Similarly, failure to draw up the plan with the claimant's input, as would normally be required, we do not consider gives rise to any inference that the respondent's actions were related to race. It is clear that the action plan was drawn up because there were real concerns about the claimant's performance. The plan was an aid to the claimant's development. Indeed, it appears that, during the time the plan was being applied, the claimant was making some good progress in achieving the action plan. We conclude that the conduct did not have the purpose or effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for him. Although the claimant may have felt it had this effect, it was not reasonable for the conduct to have that effect. This was a normal management tool used to assist development.

510. We turn now to the complaint of direct race discrimination. We conclude that the respondent did not subject to the claimant to detriment by the drawing up of the action plan and the request to sign this. The claimant was not put at a disadvantage. Indeed, the plan was for his assistance. We reject the claimant's assertion that the action plan was a "Police Racist Tool". The claimant has not proved facts from which we could conclude that the respondent treated the claimant less favourably than it treated or would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that the drawing up of the action plan and the request to sign this was less favourable treatment because of race. The fact that the plan was drawn up without the input of the claimant, going outside the normal procedure in that way, and the possibility that it was in breach of an agreement with Unison, is not enough to pass the burden of proof. At its highest, failure to follow normal procedure would be unreasonable behaviour (although we consider, in the circumstances, it was entirely explicable and undesirable, rather than unreasonable). Unreasonable behaviour is not sufficient to pass the burden of proof. If the burden of proof had passed to the respondent, we would have been satisfied

that the respondent had provided an adequate, non-discriminatory explanation for drawing up the plan and asking the claimant to sign it. This was that the respondent had genuine concerns about the claimant's performance and considered that an action plan was an appropriate way of assisting him to improve

511. We turn to the complaint of victimisation. The claimant relies on the same alleged protected acts as for allegation 19 and in addition on the grievance of 16 August 2014. We have already found that the alleged protected acts relied on for allegation 19 are not protected acts within the meaning in the Equality Act. We found that the grievance letter of 16 August 2014 could not reasonably be understood as making any allegation of unlawful discrimination. We conclude, therefore, that the written grievance of 16 August 2014 was not a protected act. The claimant, at a later stage of investigation of his grievance, said in a grievance meeting with Mr Nawaz and Mr Winstanley that he was complaining of race discrimination. What was said in that grievance meeting was, therefore, a protected act. However, that meeting was not until 17 October 2014 (Para 198). As at the date of this allegation, therefore, there was no protected act in relation to the grievance initiated on 16 August 2014. Since there was no protected act within the meaning in the Equality Act, the complaint of victimisation must fail. The complaint of victimisation would also fail on other grounds. We conclude that the respondent did not subject to the claimant to the detriment by drawing up the action plan and inviting him to sign this. The claimant has not proved facts from which we could conclude that there was a causal connection between the matters relied on as alleged protected acts and the drawing up of the action plan and the invitation to sign this. We have found that the action plan was drawn up because of genuine concerns about the claimant's performance as an aid to his development.

512. If we have jurisdiction to consider these complaints, we conclude, for these reasons that the complaints of harassment, direct race discrimination and victimisation are not well founded.

Allegation 26 – 31 August 2014 – Refusing to drop the action plan – Perpetrator Chief Inspector McFarlane

513. On 31 August 2014 the claimant emailed HR, copied to Chief Inspector McFarlane and others, a request to lift the decision of the in company period. Chief Inspector McFarlane responded to the claimant's email on the same day to say that he would deal with this on his return from leave on Thursday. He wrote that the developmental support and action plan were to continue as previously discussed. We found that, unfortunately, it appeared that there was no later reply of substance from Chief Inspector McFarlane to the claimant's email. However, we found that Inspector McFarlane received an update from Sgt Mullen-Hurst on his return from leave to the effect that the claimant was working well on achieving the action plan. We found that it could be the case that Chief Inspector McFarlane did not respond to the claimant in error or because he had been reassured by Sgt Mullen-Hurst that things were progressing well and felt there was no need to respond. We found that, whatever Chief Inspector McFarlane's reasons for not responding to the email, it was clear that he did not agree to remove the action plan. We found that the reason he did not agree to the claimant's request was because he believed there were developmental issues which needed to be addressed and the action plan was a suitable way of doing this. (Para 185).

514. The claimant brings this as a complaint of direct race discrimination and victimisation.

515. We consider first the complaint of direct race discrimination. We conclude that the respondent did not subject to the claimant to a detriment by refusing to drop the action plan. The action plan was to assist the claimant's development and, indeed, appeared at this point to be having this effect. The claimant has not proved facts from which we could conclude that Chief Inspector McFarlane treated the claimant less favourably than he treated or would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that Chief Inspector McFarlane's refusal to drop the action plan was because of race. Had the burden of proof passed to the respondent, we would have been satisfied that there was a non-discriminatory explanation, which was that Chief Inspector McFarlane believed there were developmental issues which needed to be addressed and the action plan was a suitable way of doing this.

516. In relation to the complaint of victimisation, the claimant relies on the same alleged protected acts as for allegation 25. For the same reasons as in relation to that allegation, we conclude that there were no protected acts within the meaning of the Equality Act at this time. The complaint of victimisation must, therefore, fail for this reason. In addition, the complaint of victimisation would fail because we conclude that the respondent did not subject to the claimant to a detriment. The claimant has also not proved facts from which we could conclude there was a causal relationship between the alleged protected acts and Chief Inspector McFarlane's refusal to drop the action plan.

517. If we have jurisdiction to consider these complaints, we conclude, for these reasons, that the complaints of direct race discrimination and victimisation are not well founded.

Allegation 27 – 8 September 2014 – Failing to deal with the substance of C's request for intervention and for the action plan to be lifted – Perpetrator Chief Superintendent Hankinson.

518. On 8 September 2014, the claimant emailed Chief Superintendent Catherine Hankinson. The seven-page letter included a request to remove the action plan. A summary of matters the claimant raised is set out in paragraph 187. We found that Chief Supt Hankinson forwarded the email to Chief Inspector Nawaz on the same day, asking him to take this forward with the claimant. (Para 188). Chief Inspector Nawaz was asked to deal with the claimant's stage to grievance the following day and decided to deal with issues raised in the email to Chief Superintendent Hankinson as part of the claimant's grievance. (Para 189).

519. The claimant brings this as a complaint of direct race discrimination and victimisation.

520. We consider first the allegation of direct race discrimination. We conclude that the respondent was not subjected to a detriment. The matters he raised with Chief Superintendent Hankinson were to be addressed by Chief Inspector Nawaz in dealing with the grievance. The claimant has not proved facts from which we could conclude that Chief Superintendent Hankinson treated the claimant less favourably in the manner she dealt with his email than she treated or would have treated others

in the same material circumstances. The claimant has not proved facts from which we could conclude that Chief Superintendent Hankinson acted as she did because of race.

521. We consider now the complaint of victimisation. The claimant relies on the same protected acts as for allegations 25 and 26. For the same reasons as given in relation to those allegations, we conclude that these were not protected acts within the meaning in the Equality Act. The complaint of victimisation must fail for this reason. However, in addition, we conclude that the respondent did not subject to the claimant to a detriment and the claimant has not proved facts from which we could conclude that there was a causal link between the alleged protected acts and the way Chief Superintendent Hankinson dealt with the claimant's email.

522. If we have jurisdiction to consider these complaints, we conclude, for these reasons, that the complaints of direct race discrimination and victimisation are not well founded.

Allegation 28 – 13-17 December 2014 – Rejecting C's request to lift the action plan – Perpetrator Chief Inspector McFarlane

523. The claimant wrote to CI McFarlane and others on 13 December 2014. He asked CI McFarlane to end the action plan. The letter included various allegations. CI McFarlane replied to the letter on 14 December 2014. CI McFarlane wrote that he did not accept the content of the claimant's email and referred to the claimant being in contact with Mr Nawaz about the issues he raised. He offered for the claimant to see him if he wished to discuss the matter further and that CI Nawaz would be welcome to come along. The claimant did not accept the invitation to have a meeting. We accepted the evidence of CI McFarlane that he did not feel he would have been able to remove the action plan at this stage as CI Nawaz had stated that it would be dealt with as part of the grievance outcome. We found that, if the claimant had completed his action plan whilst the grievance procedure was ongoing, he would likely have been allowed to patrol independently, which was ultimately the end target of the action plan. (Paras 218-222).

524. The claimant brings this as complaints of direct race discrimination and victimisation.

525. We consider first the complaint of direct race discrimination. We conclude that the claimant was not subjected to a detriment. The action plan was intended to aid the claimant's development. Whether the action plan should be lifted was a matter CI Nawaz was to consider as part of the grievance. The claimant has not proved facts from which we could conclude that CI McFarlane was treating the claimant less favourably than he treated or would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that CI McFarlane acted as he did because of race.

526. We turn to the complaint of victimisation. The claimant relies on the same alleged protected acts as for allegation 27. We have concluded that those acts were not protected acts for the purposes of the Equality Act. However, by this stage, the claimant had, in a grievance meeting on 17 October 2014, informed CI Nawaz and Mr Winstanley that he was alleging race discrimination. What was said in this meeting was, therefore, a protected act. Whilst the written grievance of 16 August

2014 was not a protected act, what was said in the meeting on 17 October 2014 was a protected act. Whilst the claimant did not make it clear that he intended to rely on the meeting of 17 October 2014 as a protected act, we consider that the description of the grievance as a protected act is potentially wide enough for us to consider the protected act of 17 October 2014 in relation to subsequent allegations of victimisation. The claimant has not proved facts from which we could conclude that CI McFarlane acted as he did because the claimant alleged to CI Nawaz and Mr Winstanley in a meeting on 17 October 2014 that he had been subjected to race discrimination. In addition, we conclude that the claimant was not subjected to detriment. The complaint of victimisation must, therefore, fail.

527. If we have jurisdiction to consider these complaints, for the reasons given, we conclude that the complaints of direct race discrimination and victimisation are not well founded.

Allegation 29 – 26 January 2015 – Sgt Watson starting the meeting by telling C he had done wrong that day. Defending PCSO Kenyon against C's allegations that PCSO Kenyon had ignored C for 2.5 hours on patrol. Inspector Kinrade swearing at C and telling him to sit in the parade room when he said he had a headache and asked to go home. Sgt Watson insisting on talking about C's flexible working plan although he said he had a headache and needed to go home. Sgt Watson calling C "rude". Sgt Rick Brown telling C to "get in there", trying to force him into Inspector Kindrade's office. Perpetrators Sgt Watson, Inspector Kinrade and Sgt Brown.

528. These allegations relate to a meeting which the claimant had with Sgt Watson, witnessed by Sgt Brown on 26 January 2015 and a subsequent conversation the same day with Inspector Kinrade and then Sgt Watson. We made detailed findings of fact about these events in paragraphs 226-237. The facts as found by us were not exactly as alleged by the claimant either as to what happened or the order of events. We found that Sgt Watson did not start the meeting by telling the claimant he had done wrong that day in that terminology. We considered it more likely that she said "unacceptable" or "not acceptable". Sgt Watson was referring to the claimant's failure to attend the briefing. Although there was a conversation about PCSO Kenyon, with Sgt Watson wanting to arrange for the claimant and PCSO Kenyon to discuss an incident which had occurred and iron out any misunderstanding, we found that Sgt Watson did not defend PCSO Kenyon against an allegation of ignoring the claimant for 2 ½ hours on patrol.

529. We found that Inspector Kinrade did not swear at the claimant. We found that the claimant did ask to go home but this was at a later stage. We found that Sgt Watson went to speak to the claimant a couple of hours after their initial conversation and after the claimant had asked Inspector Kinrade if he could go home, saying she needed to speak to him about his flexible working plan before he went home. Sgt Watson wanted to clarify whether there was an administrative error or whether the claimant was asking to work a totally different set of shifts with another relief because the respondent's system had the claimant working what she considered were incorrect shifts. We found that Sgt Watson did call the claimant "rude" because she considered he was being rude when he refused to go to Inspector Kinrade's office when she asked him to do so. We found that Sgt Brown did not tell the claimant to "get in there" and did not try to force the claimant into Inspector Kinrade's office. We found that Inspector Kinrade came to the sergeants' office to speak to the claimant since the claimant would not go to Inspector Kinrade's office.

530. The claimant brings these complaints as complaints of direct race discrimination and harassment. We consider these complaints on the basis of the facts we found.

531. We consider first the complaint of harassment. We conclude that the respondent engaged in unwanted conduct since the claimant was clearly unhappy about discussing these matters and particularly unhappy about being called "rude". However, the claimant has not proved facts from which we could conclude that this conduct was related to race. We conclude that the conduct did not have the purpose of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. We accept that the conduct, at least to the extent of being called rude, had the effect of creating a degrading or humiliating environment for the claimant. However, because there is no basis for us finding that the conduct was related to race, the complaint of harassment fails in its entirety.

532. We consider next the complaint of direct race discrimination. We conclude that the claimant was not subjected to a detriment except to the extent that he was not allowed to go home until after he had spoken to Sgt Watson when he had a headache. We conclude that the claimant has not proved facts from which we could conclude that the respondent treated the claimant less favourably than it treated would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that the way Sgt Watson Inspector Kinrade and Sgt Brown behaved on this day was because of race.

533. If we have jurisdiction to consider the complaints, we conclude, for these reasons, that the complaints of harassment and direct race discrimination are not well founded.

Allegation 30 – 29 January 2015 – Failing to reply to C's wife's letter – Perpetrator Chief Constable Fahey.

534. The claimant's wife, Lucy Bayissa, wrote to Sir Peter Fahey, then Chief Constable, on 29 January 2015. She asked for the Chief Constable's intervention in her husband's situation, alleging that the claimant had "been subjected to subtle racist attitudes and prejudices from some officers at work." An acknowledgement of this letter was sent from the Chief Constable's office on 4 February 2015, writing that it had been forwarded to the Professional Standards Branch for their information and action. Mrs Bayissa received no further correspondence following her letter. (Para 245).

535. The claimant brings this as a complaint of direct race discrimination and victimisation.

536. We deal first with the allegation of direct race discrimination. Mrs Bayissa did receive a reply, albeit one which just told her that the letter had been forwarded to the Professional Standards Branch. We conclude that the respondent did not subject to the claimant to a detriment by the Chief Constable not providing any other reply. Even if we were wrong on this, the complaint would fail on other grounds. The claimant has not proved facts from which we could conclude that the Chief Constable treated the claimant less favourably than it treated or would have treated others in the same material circumstances by failing to provide any other response to

the claimant's wife's letter. The claimant has not proved facts from which we could conclude that the failure to provide any other reply to Mrs Bayissa's letter was because of race.

537. We turn to the complaint of victimisation. The claimant relies on the same alleged protected acts as for allegation 28. We have concluded that these do not constitute protected acts save for what was said at a grievance hearing meeting on 17 October 2014. We conclude that the failure to provide any further response to the letter did not subject to the claimant to a detriment. The claimant has not proved facts from which we could conclude that the Chief Constable's failure to provide any further reply to Mrs Bayissa's letter is because the claimant had alleged race discrimination in a meeting with Chief Inspector Nawaz and Mr Winstanley on 17 October 2014.

538. If we have jurisdiction to consider this complaint, we conclude, for these reasons, that the complaints of direct race discrimination and victimisation are not well founded.

Allegation 31 – 6 June 2015 – Not upholding C's stage 2 grievance – Perpetrator Chief Superintendent Nawaz

539. We found that CI Nawaz made a conscientious effort to deal with claimant's grievances on their merits. (Para 261). CI Nawaz partially upheld some of the claimant's grievances.

540. The claimant brings his complaint as one of direct race discrimination. The claimant has not explained why he considers that CI Nawaz's conclusions were tainted by race discrimination. He pointed to no evidence which suggested that CI Nawaz would have reached more favourable conclusions if he had been dealing with allegations made by someone in a similar situation but of a different race. We conclude that the claimant was not subjected to a detriment by the outcome. A sense of grievance which is not justified cannot amount to a detriment. In addition, the claimant has not proved facts from which we could conclude that CI Nawaz treated him less favourably than he treated or would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that, to the extent that CI Nawaz did not uphold his grievances, this was because of race.

541. If we have jurisdiction to consider this complaint, we conclude, for these reasons, that the complaint of direct race discrimination is not well founded.

Allegation 32 – 25 November 2015 – Not upholding C's stage 3 grievance – Perpetrator Chief Superintendent Mary Doyle

542. Chief Superintendent Mary Doyle dealt with the appeal against CI Nawaz's findings. She set out her outcome in a detailed letter dated 25 November 2015. We found that CS Doyle carefully considered the evidence before her and reached her conclusions based on that evidence. (Para 266).

543. The claimant brings this complaint as one of direct race discrimination. The claimant has not explained why he considers that the stage 3 outcome is tainted by race discrimination. We found the claimant provided no evidence which suggested that CS Doyle would have reached more favourable conclusions if she had been

dealing with allegations made by someone in a similar situation but of a different race. We conclude that the claimant was not subjected to a detriment; an unjustified sense of grievance cannot amount to detriment. In addition, the claimant has not proved facts from which we could conclude that CS Doyle treated the claimant less favourably than she treated or would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that she provided the outcome which she did because of race.

544. If we have jurisdiction to consider this complaint, we conclude, for these reasons, that the complaint of direct race discrimination is not well founded.

Allegation 33 – 6 June 2016 – Mocking C's accent to another PCSO after C reported on the radio seeing a missing person. At the station, mocking C, in front of C and others, by singing the name of the missing person in the way C would say the name. Perpetrator NBO Graham Rothwell.

545. This allegation and subsequent allegations, apart from the final allegation, relate to the time when the claimant had moved his base to Central Park station in Cheetham Hill. This allegation is made against NBO Graham Rothwell, the Neighbourhood Beat Officer (NBO), for the area including the claimant's "beat". We found that NBO Rothwell did not slight the claimant's contribution and did not mock the claimant's accent in the ways alleged. (Para 271). This allegation, which is brought as a complaint of direct race discrimination, therefore fails on its facts.

546. If we have jurisdiction to consider this complaint, we conclude, for these reasons, that the complaint of direct race discrimination is not well founded.

Allegation 34 – 22 June 2016 – C's line manager, Sgt Darren Thomason failing to contact C and provide support to C after a report was made about C being subjected to racist abuse by members of the public in Cheetham Hill. NBO Rothwell, who was the neighbourhood beat officer for the area, not contacting C about the incident. Perpetrators Sgt Thomason and NBO Rothwell.

547. This relates to an incident on 22 June 2016 when the claimant was the subject of racial abuse by members of the public when on duty, attending a report of antisocial behaviour. The claimant alleges that Sgt Thomason and NBO Rothwell failed to contact him and provide him with support after a report was made about this incident. We made findings of fact about this matter in paragraphs 273 to 276. We found that neither Sgt Thomason nor NBO Rothwell were on duty on 22 June 2016. Subsequently, Sgt Thomason was asked to allocate an officer to conduct house-to-house enquiries and to re-contact the original informant who reported antisocial behaviour. Sgt Thomason allocated the case to NBO Rothwell on 28 June 2016. We found that Sgt Thomason's involvement was limited to reviewing the crime and allocating it to NBO Rothwell, in whose area the incident occurred. (Para 276). We found that NBO Rothwell did speak to the claimant about the incident. (Para 274).

548. The claimant brings this complaint as one of direct race discrimination. The claimant did not point to any evidence to suggest Sgt Thomason would have acted differently if the incident had involved a PCSO of another race. The claimant did not point to any evidence to suggest NBO Rothwell would have acted differently had the incident involved a PCSO of another race. The claimant has not satisfied us that he was subjected to detriment by the alleged lack of support. Whether or not he did

suffer a detriment, the claimant has not proved facts from which we could conclude that Sgt Thomason and/or NBO Rothwell treated the claimant less favourably than they treated or would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that they acted as they did because of race.

549. If we have jurisdiction to consider this complaint, we conclude, for these reasons, that the complaint of direct race discrimination is not well founded.

Allegation 35 – 22 June 2016 – At the station, when C said people had been racist, when asked what had happened, PCSOs rolling their eyes and ceasing discussion of the incident at the mention of "racist" – Perpetrators Lyndsey, Graham Leek, Niel and others.

550. We found that this did not occur. (Para 278). This complaint, which is brought as one of direct race discrimination, therefore, fails on its facts.

551. If we have jurisdiction to consider this complaint, for this reason, we conclude that the complaint of direct race discrimination is not well founded.

Allegation 36 – 12 September 2016 – After C had been assaulted by a member of the public, making fun of C by asking where C had been hit and telling him to turn the other way and PCSO Townsend would "balance" it for him. Later, back at the station, again making fun of C's pain, saying "boss, I want to go home, I'm in pain boss." Perpetrator PCSO Townsend.

552. We found that comments of this type were made, probably in a misplaced attempt at humour.

553. This allegation is brought as a complaint of direct race discrimination. We found no evidence to suggest that PCSO Townsend would not have made similar "humorous" remarks to a person of another race in similar circumstances. For reasons given in paragraph 280, we did not consider that use of the word "boss" in this context had any relationship to race (and the claimant had not sought to argue that it did). We conclude that the claimant was subjected to a detriment in that he took offence at these remarks. The claimant has not proved facts from which we could conclude that PCSO Townsend treated him less favourably than he treated or would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that this treatment was because of race. We conclude, for these reasons, that the complaint of direct race discrimination is not well founded.

Allegation 37 – 12 September 2016 – Neglecting C by not offering him a lift in the van back to the station after he had been assaulted. Perpetrators PCSO Townsend and NBO Rothwell.

554. This allegation relates to an incident when the claimant was hit on the head by a member of the public when on duty. Officers including NBO Rothwell and PCSO Townsend arrived in response to the claimant's call for assistance. We found that the claimant was offered the chance to ride back in the van with someone else riding his bike, but he refused. (Para 279).

555. The claimant brings this allegation as a complaint of direct race discrimination. Since we have found the facts were not as alleged by the claimant, this complaint fails on its facts. We conclude that this complaint of direct race discrimination is not well founded.

Allegation 38 – 19-23 September 2016 – Not taking concerns C raised about NBO Rothwell seriously, defending Graham Rothwell, saying he was a professional officer. Disputing C's experience at Elizabeth Slinger Road station, saying there was no racism in GMP and rolling his eyes. Perpetrator Sgt Thomason.

556. On 13 September 2016, whilst he was off sick, the claimant sent a lengthy email to Sgt Thomason. Amongst other matters, the claimant wrote about the incident when he had been assaulted the day before and made allegations about NBO Rothwell and PCSO Townsend. The allegations included an allegation about NBO Rothwell using sarcasm and forming cliques. (Para 283). We found that Sgt Thomason had a conversation with the claimant about the email a few days after the claimant returned to work. We found that Sgt Thomason commented on NBO Rothwell being professional, given this was his view. We accepted that Sgt Thomason may have said that NBO Rothwell and PCSO Townsend had been working together for a long time and it was a "hard nut to crack". (Para 284). We found that, at some time, the claimant had told Sgt Thomason about his grievance about events at ESR and had told him it was race-related. We found that Sgt Thomason did not say there was no racism at ESR. We found he did not say there was no racism in GMP. We considered he may have said that there was no racism at Central Park station, given the multiracial nature of the workforce there. We found that Sgt Thomason did not roll his eyes as alleged. (Para 285).

557. The claimant brings this complaint as one of direct race discrimination. It is unclear what detriment the claimant alleges he suffered by Sgt Thomason acting as he did. It is not clear that Sgt Thomason did not take the claimant's concerns seriously. Even if Sgt Thomason did not, and the claimant did suffer detriment, we conclude that the claimant has not proved facts from which we could conclude that Sgt Thomason treated the claimant less favourably than he treated or would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that Sgt Thomason acted as he did because of race. At its highest, Sgt Thomason not doing anything further following the claimant email could be argued to be unreasonable behaviour, but this is not sufficient in itself to prove facts from which less favourable treatment because of race could be concluded. We conclude, for these reasons, that the complaint of direct race discrimination is not well founded.

Allegation 39 24 September 2016 – Following an email from C about anti-social behaviour in Cheetham Hill, failing to take matters raised by C seriously. Graham Rothwell trying to discredit what C was saying by suggesting people raising concerns were taking cannabis. Perpetrators Sgt Thomason and NBO Rothwell.

558. We made findings of fact about this matter in paragraph 287. We found that the events did not occur as alleged by the claimant. The claimant did not satisfy us that Sgt Thomason and NBO Rothwell "resisted" what he raised about ASB and that NBO Rothwell said that some of the callers take cannabis.

559. The claimant brings this as a complaint of direct race discrimination and victimisation. Since we have found the facts not to be as alleged by the claimant, these complaints fail on their facts. We conclude that the complaints of direct race discrimination and victimisation are not well founded.

560. Although the complaint of victimisation fails on the facts, we consider the matters relied upon as protected acts. The claimant relies on matters which we have found are not protected acts in relation to previous allegations. He also relies on the grievance of 16 August 2014. Although the grievance form itself we found not to be protected act, we have concluded, for reasons previously given, that the conversation in the grievance hearing on 17 October 2014 was a protected act. The claimant also relies on an email dated 13 September 2016 to Sgt Thomason. We found there was nothing in this email which could reasonably be understood as being an allegation of unlawful discrimination. (Para 283). Other than the conversation of 17 October 2014, therefore, there were no protected acts which could be relied on.

Allegation 40 – 3 October 2016 – Refusing to write a reference for C in relation to overseas adoption. Perpetrator Sgt Thomason.

561. We found that Sgt Thomason was asked by the claimant to provide a reference in relation to an intended application to adopt a child. Sgt Thomason did not provide this. We found that he did not do so because he felt uncomfortable doing so for someone he had only known a short time. (Para 291).

562. The claimant brings this as a complaint of direct race discrimination. We have no evidence that the claimant suffered any detriment as a result of Sgt Thomason's refusal to provide a reference. The claimant did not give any evidence as to whether this adversely affected any application he made. If the claimant simply wanted a reference confirming his position and the dates he had been employed as a PCSO, we assume he could have obtained this from the respondent's HR department. We conclude that the claimant did not suffer a detriment because of the refusal.

563. Even if the claimant did suffer detriment, we conclude that the complaint fails on other grounds. The claimant has not proved facts from which we could conclude that Sgt Thomason treated the claimant less favourably than he treated or would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that Sgt Thomason refused to provide a reference because of race. If the burden of proof had passed to the respondent, we would have been satisfied that the respondent had provided a non-discriminatory explanation for the refusal; this was because Sgt Thomason felt uncomfortable providing such a reference for someone he had only known a short time. For these reasons, we conclude that the complaint of direct race discrimination is not well founded.

Allegation 41 – 5 October 2016 – Attending unnecessarily at Unity Primary School, when C was already at the school doing the job. Perpetrator NBO Graham Rothwell.

564. The claimant attended the school in the morning to help deal with the parking issue. He found that NBO Rothwell and PCSO Townsend were also there. We found that NBO Rothwell and PCSO Townsend went to support the claimant because of the parking issues there had been, because it was quiet at the schools they had

gone to first. The claimant's view was that it was unnecessary for them all to be there. (Para 292).

565. The claimant brings this as a complaint of direct race discrimination. The claimant has not explained why he considers that NBO Rothwell attending unnecessarily was direct race discrimination. We conclude that the claimant was not subjected to a detriment in the sense of being put at a disadvantage by NBO Rothwell attending at the school. The claimant has not proved facts from which we could conclude that NBO Rothwell treated the claimant less favourably than he treated or would have treated others in the same material circumstances by attending at school. The claimant has not proved facts from which we could conclude that NBO Rothwell acted as he did because of race. We conclude, therefore, for these reasons that the complaint of direct race discrimination is not well founded.

Allegation 42 – 7 October 2016 – Telling C not to attend a nursery in Cheetham Hill, because it was PCSO John's "patch", although C had been tasked with the job and had already attended. Perpetrator NBO Graham Rothwell.

566. We found that PCSO John told the claimant that he should not attend that nursery because it was in PCSO John's patch. We found that NBO Rothwell did not tell PCSO John's to tell the claimant this. (Para 293).

567. This complaint is brought as a complaint of direct race discrimination and victimisation. We conclude that the complaint against NBO Rothwell fails on the facts. Although the complaint is not brought about PCSO Johns, we found that PCSO Johns told the claimant not to attend the nursery because it was PCSO Johns' patch. The complaint of direct race discrimination would fail because the reason PCSO Johns said this to the claimant was not because of race. In addition, in relation to the alleged act of race discrimination, we are not satisfied there was any detriment. In relation to the complaint of victimisation, none of the matters relied upon were protected acts for reasons previously given except the grievance meeting of 17 October 2014. The claimant has not proved facts from which we could conclude that PCSO Johns acted as he did because the claimant had done this protected act. If the burden of proof passed to the respondent, we would have been satisfied that PCSO Johns acted as he did for the non-discriminatory reason that the nursery was on his patch.

568. We conclude, therefore, for these reasons, that the complaints of direct race discrimination and victimisation are not well founded.

Allegation 43 – 7 October 2016 – After C had raised an observation about an off road motorbike, slighting C's contribution by going on the radio saying there was not the slightest sign of a motorbike in the area. Perpetrator: PCSO Peter Townsend.

569. We found that PCSO Townsend said "there is no trace of this motorbike, not even a sound of a bike in the area". We found this was simply an observation that PCSO Townsend could not see or hear a motorbike where they were. We found that this could not reasonably be understood as slighting the claimant's contribution. We found that PCSO Townsend's observation to communications was not a "slighting" of the claimant's contribution; it did not suggest the claimant was incorrect in his observation but simply that PCSO Townsend could not see or hear a bike where he was, a few minutes later. (Para 294).

570. The claimant brings this as a complaint of direct race discrimination and victimisation. Since we have found that the facts were not as alleged by the claimant because what PCSO Townsend did could not reasonably be regarded as a "slighting" of the claimant's contribution, these complaints fail on their facts. We conclude, therefore, that these complaints of direct race discrimination and victimisation are not well founded.

Allegation 44 – 7 October 2016 – When C stayed beyond end of duty, dealing with a shoplifter, neglecting C by not calling to see if he had finished or needed support. Perpetrators Sgt Thomason and NBO Rothwell.

571. On 7 October 2016, the claimant stayed beyond the end of his tour of duty, dealing with a shoplifter at Manchester Fort (a shopping centre in Cheetham Hill). We found that Sgt Thomason and NBO Rothwell were not aware that the claimant was still dealing with a shoplifter beyond his scheduled end of tour of duty. We found that they did not hear the claimant's conversations with Communications and the claimant did not PTP Sgt Thomason or NBO Rothwell to ask for assistance. (Para 295).

572. The claimant brings this complaint as one of direct race discrimination and victimisation.

573. We consider first the allegation of direct race discrimination. We conclude that the claimant was not subjected to a detriment. Even if he was, the claimant has not proved facts from which we could conclude that Sgt Thomason and NBO Rothwell treated the claimant less favourably than they treated would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that they acted as they did because of race. They did not call the claimant to see if he had finished or needed support because they were not aware that he was still dealing with a shoplifter beyond the end of his tour of duty. If the burden had passed to the respondent, we would have been satisfied that this was a non-discriminatory reason for that failure to contact the claimant.

574. We consider now the complaint of victimisation. The claimant relies on matters which we have found are not protected acts in relation to previous allegations. He also relies on the grievance of 16 August 2014. Although the grievance form itself we found not to be protected act, we have concluded for reasons previously given that the conversation in the grievance hearing on 17 October 2014 was a protected act. The claimant also relies on an email dated 13 September 2016 to Sgt Thomason. We found there was nothing in this email which could reasonably be understood as being an allegation of unlawful discrimination. (Para 283). The only protected act, therefore, was the conversation in the grievance hearing on 17 October 2014. The claimant has not proved facts from which we could conclude that there was any connection between Sgt Thomason and NBO Rothwell not contacting him and his allegation of unlawful discrimination in the grievance meeting on 17 October 2014. The complaint of victimisation must, therefore, fail. In addition, the complaint would fail because we are not satisfied that the claimant suffered any detriment.

575. For these reasons, therefore, we conclude that the complaints of direct race discrimination and victimisation are not well founded.

Allegation 45 – 8 October 2016 – Not replying to C's email about his concerns about the team – Perpetrator Chris Hadfield.

576. The claimant sent an email to Inspector Chris Hadfield, copied to Chief Inspector John Ruffle and Sgt Thomason on 8 October 2016. CI Ruffle forwarded the email on 10 October 2016 to Timothy Rudd and Paul Coburn, asking Timothy Rudd or Paul Coburn to arrange to sit down and discuss this with the claimant. We found that Inspector Hadfield had left his neighbourhood Inspector role in May 2016 for a different position and no longer had line management responsibility for the claimant, although there was some confusion about when this occurred and we accepted that the claimant was not aware of the change of responsibilities. We found that Inspector Hadfield did not speak to the claimant about the email or reply to this because it had been allocated to Paul Coburn or Timothy Rudd to deal with. (Paras 296 -297).

577. The claimant brings this as an allegation of direct race discrimination and victimisation.

578. We consider first the allegation of direct race discrimination. The claimant has not proved facts from which we could conclude that Inspector Hadfield treated the claimant less favourably and he treated or would have treated others in the same material circumstances. The claimant has not proved facts from which we could conclude that Inspector Hadfield acted as he did because of race. If the burden had passed to the respondent, we would have been satisfied that there was a non-discriminatory reason for Inspector Hadfield not replying to the email which was that he understood others to be dealing with this.

579. In relation to the complaint of victimisation, the claimant relies on the same matters as protected acts as for allegation 39. For the reasons given in relation to that allegation, the only protected act within the meaning in the Equality Act is the conversation on 17 October 2014 during a grievance hearing. The claimant has not proved facts from which we could conclude that Inspector Hadfield's failure to reply to the email was linked in any way to this protected act. Rather, Inspector Hadfield acted as he did because he understood others to be dealing with the email.

580. For these reasons, we conclude that the complaints of direct race discrimination and victimisation are not well founded.

Allegation 46 – 10 October 2016 - Constantly calling C on the radio asking where he was. Taking C off independent patrol, telling him he would be paired up, without telling C why or giving C and his partner any specific task. Later, at the station, shouting at C, in front of others, that, if he did not do work, he would be disciplined and wagging his finger at C. In a loud voice, in front of others, saying to another PCSO – "Katie, take Tegen with you tomorrow. Make sure you take him with you." Perpetrator Sgt Thomason.

581. Our findings of fact in relation to this allegation are found at paragraphs 299 to 303. We found that Sgt Thomason did PTP the claimant a number of times but this was normal practice. Sgt Thomason did instruct the claimant that he was to be paired up with PCSO Gull. We found it was standard practice to pair up offices at times and it was preferable to pair up PCSOs when possible, to ensure their safety whilst on patrol and to improve their ability to respond to incidents. We found that Sgt Thomason thought it would be a better use of resources for PCSO Gull to leave the

other two PCSOs with whom she had been sitting in a patrol car outside McDonalds and to pair up with the claimant. The claimant and PCSO Gull were to patrol together. We found that Sgt Thomason did not give the claimant a reason for pairing up on the radio other than that was his instruction. In relation to later conversations at the station, we found that Sgt Thomason told the claimant he would be disciplined if he did not follow his order and that he was to be paired up. We found that he did not shout or wag his finger at the claimant.

582. This allegation is brought as a complaint of direct race discrimination harassment and victimisation.

583. We consider first the allegation of harassment. We conclude that Sgt Thomason did engage in unwanted conduct. However, the claimant has not proved facts from which we could conclude any of this conduct related to the protected characteristic of race. We concluded that the conduct did not have the purpose or effect of violating the claimant's dignity or creating an intimidating hostile, degrading, humiliating or offensive environment for the claimant within the meaning in the definition in the Equality Act. Although we accept that the claimant may have felt that Sgt Thomason's conduct created an intimidating, hostile, degrading, humiliating or offensive environment for him, it was not reasonable for the conduct to have this effect. Sgt Thomason was giving normal orders for the claimant to follow. When the claimant said he wanted the instruction in writing, there was nothing wrong with Sgt Thomason telling the claimant that he would be disciplined if he did not follow instructions. We conclude, therefore, that the complaint of harassment is not well founded.

584. We turn now to the complaint of direct race discrimination. We conclude that the claimant was not subjected to a detriment. However, even if he was, the claimant has not proved facts from which we could conclude that Sgt Thomason treated the claimant less favourably than he treated or would have treated others in the same material circumstances and that he treated him in the way he did because of race. Sgt Thomason was giving normal orders. For these reasons, we conclude that the complaint of direct race discrimination is not well founded.

585. We turn now to the allegation of victimisation. The claimant relies on the same matters as protected acts as for allegation 39 and, in addition, on an email dated 8 October 2016. In relation to the matters relied upon in relation to allegation 39, we found the only protected act to be the conversation in the grievance hearing on 17 October 2014. We found that the email of 8 October 2016 could not reasonably be understood as making allegations of unlawful discrimination. (Para 296). We conclude, therefore, that the email of 8 October 2016 was not a protected act. We conclude that the claimant was not subjected to a detriment. Even if he was, the claimant has not proved facts from which we could conclude that Sgt Thomason acted as he did because the claimant had done a protected act by making an allegation of discrimination in the meeting on 17 October 2014. For these reasons we conclude at the complaint of victimisation is not well founded.

Allegation 47 – 17 March 2017 – Not upholding C's stage 2 grievance, submitted 4 November 2016. Perpetrator Inspector Paul Coburn.

586. We found that Inspector Coburn carried out a thorough and conscientious investigation of the claimant's grievances. He provided a detailed outcome to the

claimant's grievances setting out the complaints and his conclusions. (Paras 320 – 321).

587. The claimant brings this complaint as one of direct race discrimination and victimisation.

588. We consider first the allegation of direct race discrimination. We conclude that the claimant did not suffer a detriment by not having his grievances upheld since we conclude that Inspector Coburn was correct in his response; an unjustified sense of grievance cannot be a detriment. Even if the claimant had suffered a detriment, the claimant did not prove facts from which we could conclude that Inspector Coburn failed to uphold his grievance because of race. The claimant did not prove facts from which we could conclude that inspector Coburn treated the claimant less favourably than he treated or would have treated others in the same material circumstances. We conclude, therefore, for these reasons that the complaint of direct race discrimination is not well founded.

589. We turn now to the complaint of victimisation. The claimant relies on the same alleged protected acts as for allegation 46. The only protected act we found to have occurred was the conversation in the meeting on 17 October 2014. We conclude that the claimant was not subjected to a detriment. Even if he had been, the claimant has not proved facts from which we could conclude that Inspector Coburn failed to uphold his grievance because the claimant had done a protected act. For these reasons, we conclude that the complaint of victimisation is not well founded.

Allegation 48 – 21 March 2017 – Putting C's vetting application on hold, effectively affecting his career move to another organisation. Perpetrator: the respondent.

590. We deal with the facts relating to this allegation in paragraphs 327 to 330. The respondent's vetting unit simply responded to requests made by British Transport Police (BTP). There was nothing to suggest that the information given was not accurate. In response to the information, it appears BTP may have put the claimant's application on hold whilst there was an ongoing live complaint against the claimant.

591. The claimant brings this as a complaint of direct race discrimination and victimisation.

592. We deal first with the complaint of direct race discrimination. The claimant may have been subjected to a detriment if his application to BTP was held up. However, it was not the respondent who put the vetting application on hold. In relation to the respondent's responses to the vetting request, the claimant has not proved any facts from which we could conclude that the claimant was treated less favourably by the respondent than the respondent treated or would have treated others in the same material circumstances or that the information they supplied was supplied as it was because of race. We conclude, therefore, that the complaint of direct race discrimination is not well founded.

593. We consider next the allegation of victimisation. The claimant relies on the same matters as alleged protected acts as for allegation 46. The only protected act we have found is the conversation in the grievance hearing on 17 October 2014. If the claimant was subjected to a detriment, this was not by the respondent in relation to putting the vetting on hold. As far as the respondent's actions went, the claimant

has not proved any facts from which we could conclude that they dealt with the vetting application as they did because the claimant had done a protected act. The complaint of victimisation is, therefore, not well founded.

The issue of time limits

594. The claimant presented his claim to the employment tribunal on 8 December 2016. The early conciliation period was 27th to 29 November 2016. Allegations 36 to 48 were, therefore, presented in time. Allegations 1 to 35 were presented out of time unless they formed part of a continuing act ending with an act in respect of which the complaint was presented in time. Since we have not found any of the complaints to be well founded on their merits, allegations 1 to 35 cannot form part of a continuing act of discrimination with any later acts. Even if we had found any of the complaints well founded on their merits, there would have been other issues to address in deciding whether there was a continuing act. For example, the acts complained of involved different perpetrators and two different police stations.

595. The tribunal, therefore, only has jurisdiction to consider allegations 1 to 35 if it is just and equitable to do so in all the circumstances. In paragraph 336, we accepted the claimant evidence that it was the cost of bringing proceedings which prevented him from doing so in February 2016. At the time, there were fees for starting proceedings in the employment tribunal and for having a final hearing. We accepted that the claimant could not afford these fees and that Unison had refused to support him and pay the fees. In these circumstances, we consider it just and equitable to consider the complaints out time. However, for the reasons given, we conclude that none of the complaints are well-founded.

Employment Judge Slater

Date: 20 June 2018

RESERVED JUDGMENT & REASONS
SENT TO THE PARTIES ON

28 June 2018

FOR THE TRIBUNAL OFFICE

ANNEX A
Schedule of Complaints

No.	Date	What happened	Type of discrimination	Perpetrator	Comparator (for direct discrimination)
1.	April and May 2014	Refusal to allow C to go on independent patrol	Direct race discrimination Harassment	Sgt Jacqui Prest	Actual – rest of the staff in the briefing before going on patrol Alternatively, hypothetical
2.	April and May 2014	Asking C whether he had done or completed surveys, in front of others, and saying words to the effect "do you realise it's getting closer to the deadline."	Direct race discrimination Harassment	Sgt Jacqui Prest	Actual – rest of the staff in the briefing before going on patrol Alternatively, hypothetical
3.	April and May 2014	Not making an effort to pair C up with another officer.	Direct race discrimination Harassment	Sgt Jacqui Prest	Actual – rest of the staff in the briefing before going on patrol Alternatively, hypothetical
4.	April and May 2014	Failing to respond to C's emails asking them to let him go on independent patrol and do jobs.	Direct race discrimination Harassment	Sgt Jacqui Prest and Inspector Kinrade	Hypothetical comparator
5.	April/May 2014	Stopping C leaving the station independently to collect CCTV	Direct race discrimination Harassment	Sgt Jacqui Prest	Hypothetical comparator
6.	April and May 2014	Failing to give C jobs when he requested them	Direct race discrimination Harassment	Sgt Jacqui Prest	Hypothetical comparator
7.	March, April and May 2014	Refusing C's requests to go on training: • Crime reduction training • Visit to communications • Police vehicle driving	Direct race discrimination Harassment	Sgt Jacqui Prest	Actual comparator – PCSOs who attended training – listed in email. Alternatively, hypothetical comparator
8.	3 June 2014	At a briefing, in front of others, shouting C's name and asking him to stay behind.	Direct race discrimination Harassment	Sgt Jacqui Prest	Actual comparator – other staff members in the briefing. Alternatively, hypothetical comparator

9.	3 June 2014	In a meeting just with C, telling C he was not suitable for a PCSO role and was not ready for independent patrol role. Telling C lots of officers had told her he was not ready. When C asked her who, telling C she had a duty of care to protect her officers but not replying when C asked if he was not one of her officers.	Direct race discrimination Harassment	Sgt Jacqui Prest	Hypothetical comparator
10.	30 June 2014	Emailing C in his absence on leave about a job relating to an off road motorbike	Direct race discrimination Harassment	Sgt Jacqui Prest	Actual comparators – Ken and Jake. Alternatively, hypothetical comparator
~~11.~~	~~7 July 2014~~	~~Sending a further email to C, chasing him up about the job referred to in 30.6.14 email, although C was on leave.~~	~~Direct race discrimination~~ ~~Harassment~~	~~Sgt Jacqui Prest~~	~~Actual comparators – Ken and Jake? Alternatively, hypothetical comparator~~
12.	8 July 2014	At a meeting with C, Segt Prest accusing C of putting a complete address on a bike at a bike marking event on 6 July, having accused him in a telephone call on 7 July of damaging the bike. Segt Mullen questioning C and elaborating on the importance of putting on the post code.	Direct race discrimination Harassment	Sgt Jacqui Prest Segt Alex Mullen-Hurst	Actual comparator – Ken Alternatively, hypothetical comparator
13.	9 July 2014	Sending a further email to C, chasing him up about the job referred to in 30.6.14 email, although C was on leave on 30.6.14.	Direct race discrimination Harassment	Sgt Jacqui Prest	Actual comparators – Ken and Jake. Alternatively, hypothetical comparator
14.	19 July 2014	Refusing to review C's PDP, saying it was incomplete, although it was a document to be completed over a period.	Direct race discrimination Victimisation (protected act – email C to Sgt Prest cc Inspector	Sgt Prest	Hypothetical comparator

			Kinrade 12.7.14 – p.610)		
15	23 July 2014	Not listening to C's concerns about Sgt Prest and defending her, saying "she is one of the best Sergeants, she is professional."	Direct race discrimination	Inspector Paul Kinrade	Hypothetical comparator
16.	31 July 2014	Recording "psychological disorder" as the reason for C's absence when the GP note said "work related stress".	Direct race discrimination	Sgt Prest	Hypothetical comparator
17.	31 July 2014	Writing information that was not discussed in the interview (as detailed in C's email to Sgt Mullen)	Direct race discrimination	Sgt Mullen-Hurst	Hypothetical comparator
18.	1 August 2014	In the office, in front of others, shouting at C about not having done various jobs and his opus page having gone red, not letting C explain.	Direct race discrimination Harassment Victimisation (protected acts – allegations of discrimination in email 12.7.14 – p.610, email 22.7.14 – p.618 and meeting with Insp Kinrade 23.7.14).	Sgt Prest	Actual comparator – PCSO Chee Chan Alternatively, hypothetical comparator
19.	4 August 2014	Not submitting C's completed grievance form to HR.	Direct race discrimination Victimisation (protected acts – as for allegation 18 and conversation with Insp Sutcliffe 31.7.14 and grievance form given to Insp Sutcliffe – p.685)	Inspector David Sutcliffe	Hypothetical comparator
20.	10 August 2014	Not listening to C's concerns. Telling C what other sergeants thought about C. Telling C to check "your mannerism". Defending Jacqui Prest, saying "she is	Direct race discrimination Victimisation (protected acts – as for allegation 19)	Inspector David Sutcliffe	Hypothetical comparator

		professional."			
21.	14 August 2014	Calling C and shouting at him that it was not acceptable that he was collecting CCTV, although tasked to do this, and he should come straight back to the station.	Direct race discrimination Harassment Victimisation (protected acts – as for allegation 19)	Sgt Mullen-Hurst	Hypothetical comparator
22.	14 August 2014	Keeping C in the station for more than 5 hours, doing nothing, not allowing him to go on independent patrol. Telling him he would be paired up from now on.	Direct race discrimination Harassment Victimisation (protected acts – as for allegation 19)	Sgt Mullen-Hurst	Hypothetical comparator
23.	14 August 2014	Raising his voice to C, putting his finger to his head and saying "do you understand instructions?" Saying to C: "Go and ask your wife to explain to you." Telling C to go on patrol to Chorlton at 11.10 p.m., with no task given, although the shift was due to end at 11.30 and he would not be able to get to Chorlton and back in the time remaining. Telling C to remain in the station to the end of duty when C refused to go on patrol.	Direct race discrimination Harassment Victimisation (protected acts – as for allegation 19)	Inspector Paul Kinrade	Hypothetical comparator
24.	14 August 2014	Sending an email to HR, copied to others, complaining about C's performance, although she was not C's line manager and no performance issue had been brought to C's attention. Collusion by Sgt Prest.	Direct race discrimination Harassment Victimisation (protected acts – as for allegation 19)	Sgt Mullen-Hurst Sgt Prest	Hypothetical comparator
25.	20 August 2014	Trying to coerce C into signing a log of incidents and an action plan.	Direct race discrimination Harassment Victimisation	Sgt Mullen-Hurst Sgt Prest, Inspector	Hypothetical comparator

		Collusion by other officers in drawing up action plan.	(protected acts – as for allegation 19 and grievance 16.8.14 – p.751)	Kinrade, Chief Inspector Stephen McFarlane	
26.	31 August 2014	Refusing to drop the action plan.	Direct race discrimination Victimisation (protected acts – as for allegation 19 and grievance 16.8.14 – p.751)	Chief Inspector McFarlane	Hypothetical comparator
27.	8 September 2014	Failing to deal with the substance of C's request for intervention and for the action plan to be lifted.	Direct race discrimination Victimisation (protected acts – as for allegation 19 and grievance 16.8.14 – p.751)	Chief Superintendent Hankinson	Hypothetical comparator
28.	13-17 December 2014	Rejecting C's request to lift the action plan.	Direct race discrimination Victimisation (protected acts – as for allegation 19 and grievance 16.8.14 – p.751)	Chief Inspector McFarlane	Hypothetical comparator
29.	26 January 2015	Sgt Watson starting the meeting by telling C he had done wrong that day. Defending PCSO Kenyon against C's allegations that PCSO Kenyon had ignored C for 2.5 hours on patrol. Inspector Kinrade swearing at C and telling him to sit in the parade room when he said he had a headache and asked to go home. Sgt Watson insisting on talking about C's flexible working plan although he said he had a headache and needed to go home. Sgt Watson calling C "rude". Sgt Rick Brown telling	Direct race discrimination Harassment	Sgt Watson, Inspector Kinrade, Sgt Brown	Hypothetical comparator

		C to "get in there", trying to force him into Inspector Kinrade's office.			
30.	29 January 2015	Failing to reply to C's wife's letter.	Direct race discrimination Victimisation (protected acts – as for allegation 19 and grievance 16.8.14 – p.751)	Chief Constable Fahey	Hypothetical comparator
31.	6 June 2015	Not upholding C's stage 2 grievance.	Direct race discrimination	Chief Superintendent Nawaz	Hypothetical comparator
32.	25 November 2015	Not upholding C's stage 3 grievance	Direct race discrimination	Chief Superintendent Mary Doyle	Hypothetical comparator
33.	6 June 2016	Mocking C's accent to another PCSO after C reported on the radio seeing a missing person. At the station, mocking C, in front of C and others, by singing the name of the missing person in the way C would say the name.	Direct race discrimination	NBO Graham Rothwell	Hypothetical comparator
34.	22 June 2016	C's line manager, Sgt Darren Thomason failing to contact C and provide support to C after a report was made about C being subjected to racist abuse by members of the public in Cheetham Hill. NBO Graham Rothwell, who was the neighbourhood beat officer for the area, not contacting C about the incident.	Direct race discrimination	Sgt Thomason and NBO Rothwell	Hypothetical comparator
35.	22 June 2016	At the station, when C said people had been racist, when asked what had happened, PCSOs rolling their eyes and ceasing discussion of the	Direct race discrimination	Lyndsey, Graham Leek, Niel and others.	Hypothetical comparator

		incident at the mention of "racist".			
36.	12 September 2016	After C had been assaulted by a member of the public, making fun of C by asking where C had been hit and telling him to turn the other way and PCSO Townsend would "balance" it for him. Later, back at the station, again making fun of C's pain, saying "boss, I want to go home, I'm in pain boss".	Direct race discrimination	PCSO Peter Townsend	Hypothetical comparator
37	12 September 2016	Neglecting C by not offering him a lift in the van back to the station after he had been assaulted.	Direct race discrimination	PCSO Peter Townsend and NBO Graham Rothwell	Hypothetical comparator
38	19-23 September 2016	Not taking concerns C raised about NBO Graham Rothwell seriously, defending Graham Rothwell, saying he was a professional officer. Disputing C's experience at Elizabeth Slinger Road station, saying there was no racism in GMP and rolling his eyes.	Direct race discrimination	Sgt Darren Thomason	Hypothetical comparator
39	24 September 2016	Following an email from C about anti-social behaviour in Cheetham Hill, failing to take matters raised by C seriously. Graham Rothwell trying to discredit what C was saying by suggesting people raising concerns were taking cannabis.	Direct race discrimination Victimisation (protected acts – as for allegation 19 and grievance 16.8.14 – p.751 and email 13.9.14 to Sgt Thomason – p.1289)	Sgt Darren Thomason NBO Graham Rothwell	Hypothetical comparator
40	3 October 2016	Refusing to write a reference for C in relation to overseas adoption	Direct race discrimination	Sgt Darren Thomason	Hypothetical comparator

41	5 October 2016	Attending unnecessarily at Unity Primary School, when C was already at the school doing the job.	Direct race discrimination	NBO Graham Rothwell	Hypothetical comparator
42	7 October 2016	Telling C not to attend a nursery in Cheetham Hill, because it was PCSO John's "patch", although C had been tasked with the job and had already attended.	Direct race discrimination Victimisation (protected act – as for allegation 39)	NBO Graham Rothwell	Hypothetical comparator
43	7 October 2016	After C had raised an observation about an off road motorbike, slighting C's contribution by going on the radio saying there was not the slightest sign of a motor bike in the area.	Direct race discrimination Victimisation (protected act – as for allegation 39)	PCSO Peter Townsend	Hypothetical comparator
44	7 October 2016	When C stayed beyond end of duty, dealing with a shoplifter, neglecting C by not calling to see if he had finished or needed support.	Direct race discrimination Victimisation (protected act – as for allegation 39)	Sgt Darren Thomason NBO Graham Rothwell	Hypothetical comparator
45	8 October 2016	Not replying to C's email about his concerns about the team	Direct race discrimination Victimisation (protected act – as for allegation 39)	Inspector Chris Hadfield	Hypothetical comparator
46	10 October 2016	Constantly calling C on the radio asking where he was. Taking C off independent patrol, telling him he would be paired up, without telling C why or giving C and his partner any specific task. Later, at the station, shouting at C, in front of others, that, if he did not do work, he would be disciplined and wagging his finger at C. In a loud voice, in front	Direct race discrimination Harassment Victimisation (protected act – as for allegation 39 and email 8.10.16 – p.1297)	Sgt Darren Thomason	Hypothetical comparator

		of others, saying to another PCSO – "Katie, take Tegen with you tomorrow. Make sure you take him with you."			
47	17 March 2017	Not upholding C's stage 2 grievance, submitted 4 November 2016.	Direct race discrimination Victimisation (protected act – as for allegation 46)	Inspector Paul Coburn	Hypothetical comparator
48	21 March 2017	Putting C's vetting application on hold, effectively affecting his career move to another organisation	Direct race discrimination Victimisation (protected act – as for allegation 46)		Hypothetical comparator

ANNEX B

Legal Issues

Direct race discrimination

1. Did the respondent subject the claimant to a detriment in relation to the matters identified as complaints of direct race discrimination in the schedule of complaints?

2. If so, in relation to these matters, did the respondent treat the claimant less favourably than it treated or would have treated others in the same material circumstances?

3. If so, was this less favourable treatment because of the protected characteristic of race?

Harassment

4. In relation to the matters identified as complaints of harassment in the schedule of complaints, did the respondent engage in unwanted conduct?

5. If so, was this conduct related to the protected characteristic of race?

6. If so, did the conduct have the purpose or effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant?

Victimisation

7. Did the claimant do protected acts e.g. make allegations of unlawful discrimination?

8. In relation to the matters identified as complaints of victimisation in the schedule of complaints, did the respondent subject the claimant to a detriment?

9. If so, was this because the claimant had done a protected act or because the respondent believed the claimant had done or may do a protected act?

Jurisdiction – time limits

10. Were the complaints brought in time (including consideration of whether individual acts formed part of a continuing course of conduct)?

11. If not, is it just and equitable for the tribunal to extend time to allow the complaints to be considered?

Remedy

12. If successful, what remedy is the claimant entitled to?