



EMPLOYMENT TRIBUNALS

Claimant

Mrs R Spread

Respondent

London Fire Commissioner

Heard at Watford and by CVP

On: 6 – 22 and 29 June 2022 (23, 24, 27, 28, 30 June and 16 August 2022 in chambers)

**Before Employment Judge Manley
 Mr D Bean
 Mr A Scott**

Appearances

For the Claimant: Mr G Powell, counsel
For the Respondent: Ms R Thomas, counsel

RESERVED JUDGMENT

- 1 There are no facts from which the tribunal could conclude there was less favourable treatment because of the claimant's sex. Even if the burden of proof had shifted to the respondent, the tribunal is satisfied that there was no discrimination because of sex. The direct sex discrimination claim is unsuccessful.
- 2 Some of the conduct about which the claimant complained was unwanted but it was not related to sex and it did not have the effect of violating her dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for her. The harassment claim is unsuccessful.
- 3 The claimant did some protected acts when she presented an employment tribunal claim in 2012 and when she sent grievances to the respondent in July 2018 and February 2019. She has not been subjected to any detriments because of having made those protected acts. The victimisation claim is unsuccessful.
- 4 All the claimant's complaints brought under Equality Act 2010 fail and are dismissed.

REASONS

Introduction and issues

- 1 This matter has been a challenging one for all the participants and the tribunal is grateful to the parties, witnesses and the representatives for the way in which they conducted themselves with professionalism, flexibility and good humour. The nature of the respondent business is such that abbreviations and acronyms are very commonly used and are familiar to those working with them daily. In order to help with reading and understanding this judgment, it seems wise to include a list of those used in statements and many documents and this appears at Appendix 1.
- 2 The claimant has brought these three claims (on 2 April 2018; 23 May 2019 and 28 July 2020) alleging sex discrimination, harassment and victimisation over the period from her return to work in May 2015 after an extended period of absence, until the presentation of the third claim in July 2020. She is still employed by the respondent. The allegations are extensive and there has been detailed discussion and correspondence about a list of issues. At case management preliminary hearings, it was agreed that the matters to be determined by the tribunal hearing the matter were contained in the “Combined List of Issues”. Unfortunately, that list is rather unwieldy and there is considerable repetition, as well as some issues similarly but not identically worded. It is hoped that there are as few errors as possible in this judgment when they are referred to.
- 3 As can be seen at the outset, there were listed there 64 complaints of direct discrimination, 24 of harassment and 34 of victimisation. Most of those appearing as harassment or victimisation also appeared as claims of direct discrimination so there was considerable overlap (albeit sometimes with slightly different wording). There was some reduction in the issues at the start of the hearing with 16 matters being withdrawn (out of the total of the 122). When we received written submissions on day 18, 4 further matters were not pursued and, in one or two cases, we assumed the matter was not pursued because of its similarity to a withdrawn matter. To complicate matters further, many of the issues contain several allegations, often involving different people leading to difficulties in making findings of fact and drawing conclusions on them. The issues are set out under the headings for each claim – first claim, second claim, third claim - and it seems sensible to try to record the facts and our conclusions under those headings, though some matters do straddle two or more claims.
- 4 At the commencement of this hearing, the claimant having recently secured legal representation, an application was made to include a further protected act – a previous employment tribunal claim presented in 2012 - to be relied upon for the victimisation claim. This amendment was allowed and led to several of the other pleaded protected acts being removed.
- 5 The list of issues as amended at the outset of the hearing appears as Appendix 2 as it was forwarded to us all by the respondent’s representative and also with our conclusions below.

The hearing

- 6 At the commencement of the hearing, the claimant's representative, who had only very recently been instructed, applied for the claimant to be allowed to rely upon a supplementary statement which had been sent to the respondent just before the hearing. The respondent objected but the tribunal decided to allow the statement to be added to the claimant's evidence, particularly in view of the fact that she had been unrepresented when she prepared her first statement and we were assured there was no attempt to broaden the claim.
- 7 It was agreed that we could arrange the hearing so that part was in person at the tribunal and some remotely by CVP. For the most part, this was successful although we did have to make some last minute changes when there were technical difficulties.
- 8 The case was complex with the original trial bundle extending to over 3900 pages. As is often the case, several extra documents were also admitted, for the most part by agreement. The tribunal dealt with some preliminary matters and then read for the first two days.
- 9 We had witness statements for a total of 34 witnesses, 8 for the claimant and 26 for the respondent. In the event, not all were cross examined. Some were ill and some had given evidence which did not need cross examination or was unnecessary because of the changes to the list of issues. The 26 witnesses named below did attend and were cross-examined over the next 11 days:

For the claimant

The claimant (now Station Officer);
Mark Smith (Station Officer)
Joe McVeigh (retired TU representative)
Peter Wolfenden (retired Station Commander)
Matt Richards (Station Officer)

For the respondent

David Amis (retired Head of Wellbeing)
Angela Hale (Head of Training Operations)
Keeley Foster (Deputy Assistant Commissioner)
Mehmet Asir (Station Officer)
Andrew Worsam (retired Group Manager)
Rob Bond (retired Head of Advice and Employee Relations)
Joe Kenny (Group Commander)
Andrew Cross (Employee Relations Manager)
Paul Kavanagh (Deputy Assistant Commissioner)
Jason Sims (Business Systems Improvement Manager)
Daniel Johnson (Station Commander)
Mark Davidson (Borough Commander)
Catherine Gibbs (Head of Advice and Employee Relations)
Perry Shelat (HR Advisor)
Kevin McKenzie (Group Commander)

Colin Digby (Station Commander)
Paul Cartwright (Station Commander)
Allan Robertson (Station Commander)
James Ryan (Station Commander)
Andrew Hearn (former Deputy Assistant Commissioner)
Josie Durand (HR Advisor)

Those for whom we read witness statements for the claimant but were not cross examined were Glen Radley, Jason Hunter and Kamran Hussain. For the respondent we read witness statements from Mark McManus, Phil Towers, Paul Gleeson, Chloe Van Dop and Steve Smith but they were not cross examined. For those witnesses, therefore, we put less weight on their evidence. Many of these officers' job titles changed through a process known as Role to Rank in 2019 and also as they progressed. Some of them have retired. We have decided to use the titles Mr" and "Ms" to avoid confusion although many of the documents contain abbreviated job titles for people mentioned.

- 10 During the course of the hearing, there were questions about further documents which might be relevant. We were sent employment records for female GES employees. Later, after the claimant's representative made reference in cross examination to other employment tribunal judgments involving the respondent, we were sent copies of two such judgments. A witness referred to handwritten notes not in the bundle and copies of these were also forwarded to all of us.
- 11 We received lengthy written submissions, with shorter oral replies, deliberated and reserved judgment. Deliberations were lengthy as was the process of writing this judgment.

The relevant facts

General

- 12 Many of the facts as spelt out in this section are taken from the respondent's witness statements as it is understood that there is little dispute about them. The respondent is the publicly funded fire service for London. It operates 102 fire stations split into 4 divisions (South East, South West, North East and North West). Every fire station has at least one fire appliance, crewed by four or five firefighters. An appliance crew will normally be managed by a Leading Firefighter (formerly a Crew Manager) and depending on the size of the station, the watch will be led by either a Sub Officer ("Sub O"), (formerly a Watch Manager A), or a Station Officer ("Stn O"), (formerly a Watch Manager B). The respondent operates a shift system of four watches (White, Red, Green and Blue) to provide 24 hour cover at fire stations operating in a fixed rota pattern (2 days and 2 nights on with 4 days off) throughout the year.
- 13 All fire stations have a Station Commander (formally a Station Manager) who has oversight of the 4 watches and is responsible for the overall performance and personnel at the station, although some Station Commanders (SC's) are in charge of more than one fire station.

- 14 The respondent changed the structure of the hierarchy by agreement with the FBU in October 2019 under a process called “*Role to Rank*”, also known as “*R2R*”. We were told, as at February 2022, these were the numbers in LFB in various positions (with the old role names in brackets) in order of seniority:
- Commissioner x 1
 - Deputy Commissioner x 1
 - Assistant Commissioner x 6
 - Deputy Assistant Commissioner x 16
 - Group Commander (which includes Borough Commanders) x 67
 - Station Commander (Station Manager) x 154
 - Station Officer (Watch Manager B) x 292
 - Sub Officer (Watch Manager A) x 498
 - Leading Firefighter (Crew Manager) x 589
 - Firefighter x 3160
 - Trainee Firefighter x 129
- 15 In or around 2007, the respondent introduced a Graduate Entry Scheme (“GES”) for external applicants. The tribunal was told that the scheme was intended to facilitate successful applicants from under-represented groups to move into management positions more quickly than usual to assist LFB to make a significant contribution to increasing diversity at all levels, in line with LFB’s Equality Strategy 2008 – 2018.
- 16 The claimant was enrolled on the respondent’s first GES in late 2007. The GES was set up to give the individuals enrolled on the scheme an opportunity to be fast tracked and to progress to the application stage for the role of Station Commander (SC) (formerly Station Manager (SM)). As soon as an individual applied for the SC role, then they would be deemed to have completed the GES. The LFB ran two such schemes before they were discontinued. There were originally six women and eight men on the first GES with the claimant, which had reduced to 5 women and six men by the time of the beginning of these claims.
- 17 The GES was not a guaranteed route for progression or promotion. Those enrolled still had to complete various formal units and elements and demonstrate their competencies by completing several courses. We were told they also needed to gain operational, community and personnel-based experience. The formal assessment of competencies was logged in each individual’s personal development record (“PDR”) which was assessed by line managers, who signed off assignments if the individual demonstrated the required competencies. The PDR was then reviewed by moderators in the Learning and Development Team to ensure the specific standard was met.
- 18 An extract from a report prepared before the scheme anticipated this progress (page 828)

“Proposed timetable for Graduate Entry Development Programme

6. The table below provides an overview of the anticipated phases of development for the candidates.

The timescales are aspirational rather than fixed and may vary for each candidate dependant upon background experience, ability and capacity for learning.

Career stage Approx dates

Induction Phase December 2007

Phase 1 Firefighter development –training at STC January 2008

Phase 2 Firefighter development –initial posting to End April 2008

Watch Crew Manager –development starts April 2009

Watch Manager –development starts April 2010

Station Manager –development starts December 2010

MMAC –synchronising with the mainstream MMAC End 2011”

- 19 The respondent used “Role Maps” to describe the competencies for each role and the Watch Manager (WM) role map is at pages 1447 of the bundle. The introduction reads as follows:-

“Example of activities for WM role map.

The list provided in this guidance is non exhaustive and can be adapted to meet local requirements.

The WM assessment is designed to ensure the WM candidate can carry out the tasks correctly but that they delegate work to their junior officers and FFs (ensuring they are adequately trained first).

Personnel Development Logs (PDLs), should include a record of where the majority (not all), of the activities listed have been carried out by or overseen by the WM

Formal assessments are carried out once the PDLs show sufficient development has taken place, they are not used as part of the Formal assessment process. The assessor selects a range of activities from the role map unit (not all of them) being assessed and informs the candidate in advance what they will be required to do to achieve competence. This will always include direct observation of the candidate completing tasks and Q&A. Professional discussion can be used to supplement the assessment as required”

- 20 The role map is long with 11 WM competencies and examples of how to show those competencies. By way of example the first is WM1:-

“WM 1 Lead the work of teams and individuals to achieve their objectives

Planning the work to be carried out by the you and the watch/ adding work for other watches and informing them (not an exhaustive list)

- *Roll call*

- *Operational readiness*
- *Preparing watch for service standard audits*
- *Stn diary work queues*
- *Forward planning to ensure performance targets are met*
- *Ops News*
- *Acting on instructions sent out via 'Communications team' emails*
- *Acting on instructions sent out by DAC/BC/SM / Area support teams etc*
Appliance and station inventories
- *Hot strikes*
- *TNA for personnel*
- *Development of watch personnel including PDR candidates*
- *BPA's PDPs*
- *Core Skills training*
- *Knowledge of borough training plan*
- *Using Live reports*

- 21 Any candidate for progression, including a GES candidate, would still have to complete their PDR following the same process of submitting performance development logs ("PDLs"), undertaking actions identified on development plans and then being formally assessed for competence. Candidates would also be required to undertake the training courses identified as necessary for development in the roles.
- 22 When an employee is newly promoted, there is a development period during which they are required to show that they are competent in all of the units set out in the Role Map for their role. This development period usually lasts for between nine and 18 months. The tribunal was told that it could be longer and that most candidates readiness for progression was closer to 18 months than nine. How long it takes for each individual employee to be assessed as competent in all of the Role Map units depends on how quickly they are exposed to situations which develop the skills set out in each of those units.
- 23 Assessment of development takes place by way of regular PDRs. These usually happen every four to six weeks, subject to operational demands, and they take place between the developing employee and their assessor. The assessor is usually someone one rank above the developing employee, who might also be their line manager.
- 24 At or before each PDR, the developing employee should submit Personal Development Logs ("PDL") which set out what development activities they have been involved in since the last PDR and which Role Map unit/s those activities demonstrate evidence of. The developing employee and their assessor then discuss the PDLs at the next PDR, and the assessor provides advice and guidance on whether the information within the PDL is appropriate,

sufficiently detailed and whether it is valid evidence towards meeting the objectives under one or more of the Role Map units. The assessor will also make suggestions on what additional evidence or information is needed in order to meet the requirements of the various other Role Map units.

- 25 Every Role Map unit is different but on average, a developing employee will submit four or five valid PDLs for each unit to demonstrate that they are ready to be formally assessed on that unit. At that point, if the assessor is satisfied that the developing employee is ready to be assessed, they will open the assessment for a set period and carry out a formal review of the employee's competency against set criteria. If the employee is able to satisfactorily demonstrate competency during the assessment period then that part of the Role Map is signed off.
- 26 Once an employee is signed off as competent on the Role Map, their assessments are subject to a consistency check by a more senior manager. The evidence is then submitted to the PDR team at HQ for a quality assurance check. If the evidence and the process are found to have been completed correctly, they are then considered as competent in role and were also eligible to apply for promotion to the next rank.
- 27 When deciding whether a developing employee has submitted sufficient evidence to show they are ready for assessment on a particular Role Map unit, it may be possible to take into account Recognised Prior Learning ("RPL") which is learning or experience of the higher rank whilst being in the lower rank. Further discussion on this appears later in the judgment as there was a dispute about when RPL could be taken into account.
- 28 Another part of the respondent's policies which relates to development is the Personal Development Plan ("PDP"). This is a tool used to highlight issues seen during operations and training. A PDP can be used as a development tool as against the Role Map, for corrective action or for other positive purposes. Although the purpose of PDPs is not meant to be punitive, the respondent's witnesses accepted that they could have a negative connotation. The claimant also issued PDPs to those she line-managed as she accepted in her PDLs. If an entry on IMP database is made, the usual course is for a PDP to be issued.
- 29 As would be expected the respondent has many detailed policies and procedures for employees as well as guidance notes for managers. Some parts of those are relevant for this matter and are as follows:-

- 1) From the disciplinary procedure on appeals

"Normally the Appeal Manager will conduct the appeal hearing as a rehearing (in full or part), where this is required. Otherwise the appeal hearing will be conducted as a review. A rehearing would normally be required in the following instances (this is not necessarily an exhaustive list):

There was a procedural defect at the original hearing such that the

hearing was unfair.

New evidence has come to light which needs to be heard in full.

There is a dispute about evidence given by one or more witnesses at the original hearing.

In these cases it may be necessary to rehear the witness evidence at the appeal”.

2) From the Managing Absence policy

“Objectives

The main objectives of the Managing Attendance Policy and this Handbook are to:-

Maximise attendance at work;

Ensure appropriate support to those who are absent through illness or injury before considering the capability process;

Minimise the disruption to service delivery caused by sickness absence.

Long term absence

22.7 After 6 months of continued long term absence or unavailability from the substantive role, a first stage capability meeting may be considered”.

3) From the Uniform policy 320

“Staff at fire stations

4.2 At fire stations:

- Firefighter to sub officer – workwear.*
- Station officer and above – workwear or undress.*

4.3 The only exception to workwear at fire stations is PPE, which is to be worn at roll call by all staff up to and including station officer, and for other station based activities as required.”

Facts relevant to the claimant

First claim

30 As stated, the claimant began her employment in 2007. Extracts from her contract read as follows:

“5. Job Description

The job description in your substantive role contains the NJC agreed role map in force from time to time. In accordance with paragraph 5 of section 3 of the Grey Book specific activities within roles will be determined by the Authority to meet the local needs of the service based on its Integrated Risk Management Plan.

Accordingly. The job description may from time to time be amended by the Authority and in addition to the duties set out in the job description. You may at any time be required to undertake additional or other duties as necessary to meet the needs of the Authority.

8. Place of Work

Your appointment is to the service of the Authority without limitation to any particular establishment or station and the right is reserved to transfer you to any post in the London Fire Brigade as may be required and which is appropriate to your role. The Headquarters address of the Authority is Main Building. Fire Brigade HQ. 8 Albert Embankment. London SE1 750 but will be moving to 169 Union Street London SE1 in 2008. The station to which you will be posted if you successfully complete your initial training will be notified to you shortly before the end of the training course. For the period of your basic training you will be based at Southwark Training Centre. 94 Southwark Bridge Road. London, SE1”.

- 31 The tribunal understands that the claimant worked at several of the respondent's fire stations including Tottenham, Islington, Leyton and Leytonstone during this period. One of the protected acts relied upon relates to what is said to be a complaint/grievance relating to Tottenham in 2009. The respondent has no record of such a matter and the tribunal has no further information on it.
- 32 In 2011 the claimant was suspended and she later presented an employment tribunal claim in connection, we assume, with that matter, in March 2012. That claim was settled, on confidential terms, the tribunal believes, in 2014. The claimant also had a period of sick leave, maternity leave and annual leave. This led to her being not physically at work for a total of about 3 and a half years. She was due to return in April 2015 but actually returned to work on light duties at Finchley station on 4 May 2015 as Crew Manager (CM) on development.
- 33 Before returning to the workplace, the claimant had a meeting with Rob Bond, who was Head of Advice and Employee Relations and had been her point of contact during her absence. Joe McVeigh, her FBU representative attended with her. The claimant and Mr Bond had communicated about several matters relating to her return to work before the meeting and he had informed her that her line manager on her return would be the Station Manager with Borough Commander Leader being in overall control. No notes were taken of the meeting but it is generally agreed that it was a friendly meeting and that Mr Bond was keen to get the claimant back to work. Mr McVeigh and the claimant understood from Mr Bond that she would not have to repeat any courses she had undertaken as CM, with Mr McVeigh recalling that it was the academic side that would not need to be repeated. Mr Bond made it clear that it was up to her operational line managers to work out a training needs analysis (TNA).
- 34 The claimant's case is that she heard there had been rumours circulating about her previous employment tribunal claim. For the most part, the only evidence we heard about this was as contained in the claimant's particulars of claim as set out in the list of issues. She made no reference to these rumours in either of her witness statements. Issue 4.3 suggests Mr Towers had reported something about Mr Leader to the claimant but his witness statement, on which he was not

cross examined, said he did not recall anything. There is no evidence of what was said, by whom or when, save for the claimant's assertion. She does not suggest she heard anything and the witnesses we heard from denied that they considered her a "*troublemaker*". It is possible that rumours did circulate about an employee who had been absent for some time and had pursued an employment tribunal claim. The claimant cannot show that there were these specific rumours before she went back to work.

- 35 Shortly before her return to work, the claimant made a flexible working application on 23 April 2015 to accommodate her childcare responsibilities as she had triplets of one year and a teenage child. The claimant had a meeting with a senior officer Ms Philpott and agreement was reached about her return.
- 36 On her return to work, which was, after some changes, to Finchley, the claimant was on light duties, pending Occupational Health (OH) advice on her fitness. Although, strictly speaking Mr Bond was not her line manager, the claimant did write to him about courses she was asked to go on. He forwarded those emails to Mr Worsam, who was Group Manager in Personal Development Team with responsibility for GES employees. The claimant needed a TNA which her line manager was responsible for drawing up. There was communication about courses the claimant needed to go on. The tribunal heard no clear evidence about any courses the claimant was required to attend that were not relevant to her work and her progression.
- 37 Ms Durand, an HR adviser, was assisting the claimant on her return and became involved, unusually, with helping her with her uniform. There were some delays, outlined in Ms Durand's witness statement, some of which related the wrong size of trousers having been ordered.
- 38 The claimant commenced operational duties as Crew Manager (CM) on development in September 2015 but then had a period of sick leave and light duties again before being operational, known colloquially in LFB as "*on the run*", in January 2016. The claimant was asked to attend a refresher course in October 2015 (Issue 4.6) but is not clear to the tribunal why or whether she objected to this. It appears she did attend.
- 39 It may be worth recording here the information the tribunal has about other people who were in the claimant's GES cohort as one of her central complaints is that male counterparts had progressed to more senior positions by the time of her return. At May 2015, of those 6 male comparators, 4 were WM (B), one was WM (A) and one SM on development. 2 of those who were WM (B) at May 2015 had previously been WM (A), whilst 2 others had progressed to WM (B) without being WM (A) first. Four females of the same cohort were still with LFB. One remained a firefighter until she left in April 2022. Of the other three, two were WM (B) and one was CM in May 2015.
- 40 Mr Asir became Watch Manager (WM) and the claimant's line manager at Finchley from February 2016. He was aware she was on GES and that he was expected to progress her PDR so that she would be made a substantive CM and then move on. His evidence was that he started her PDR book "*afresh*", in that he opened an electronic record where it had previously been paper based.

Her development was completed by August 2016 so that she was then Crew Manager (CM).

41 In spite of this relatively quick progress, the claimant has raised various concerns about Mr Asir. In particular, she complains that he issued PDPs and reported to her negative things that had been said about her by others. It is sensible to set out here the PDPs as described to the tribunal, dated between April 2016 and December 2017. They are referred to at Issue 4.23.

42 The first PDP complained of was issued on 12 April 2016 by Mr Asir. It arose from an incident on 21 January with the claimant, having been informed by Ms Oparaocha that an entry would be made on the Incident Monitoring Process (IMP) database, and commenting as follows: -

"I hope that the entries will act as a reminder to you that it is not appropriate to vent your personal frustrations on a fire ground radio at an operation incident and nor should you leave your post as a safety officer in a fire sector without first informing your sector commander. I would like to add that I didn't appreciate your tone or your volume during our conversation. There are many occasions where discussion and open debate are appropriate in our job. I don't believe that this was such an occasion".

43 Ms Oparaocha phoned Mr Asir about the IMP for the claimant. It led to the usual process of him issuing a PDP which appears at p993. It contains an explanation of how improvements can be made and was signed off as complete on 12 May 2016. At this hearing, the claimant said she disagreed with the description of what had happened at the incident. She said that "*wouldn't go about it in that way*", that is, by issuing a PDP, and that one aspect was suitable for performance management but the other was a conduct matter and should have been dealt with under the disciplinary procedure. She said that how someone talks on the radio can't be managed and she probably would have dealt with it informally. The tribunal does not accept that this PDP was issued as a form of punishment or because of her reputation.

44 The second PDP about which the claimant complains was issued on 4 November 2016. Again, Mr Asir was notified of an incident involving the claimant by a different officer (Mr John Ryan) when there was a collision of a fire engine at a school. The claimant was CM and the vehicle reversed into a post. The claimant did not accept she should have been issued with a PDP. She also stated that Mr Asir lied when he entered a progress report in December 2016 when he stated that he had witnessed her reversing. The PDP was not signed off as complete until June 2017, Mr Asir believes, because he was reminded about it by a manager. The tribunal was told that the driver of the vehicle was also issued with a PDP. The tribunal does not find that this PDP was issued as a form of punishment or because of the claimant's reputation.

45 The third and fourth PDPs can be taken together as they relate to the same incident. They arose from the claimant's attendance at a Breathing Apparatus (BA) training event in Park Royal and the trainers reporting several concerns about the claimant back to the station. After discussion with SM Madeley, Mr Asir met with the claimant and issued two PDPs dealing with two policies. The first was Policy 466 and related to parts of the training that needed to be addressed with specific matters highlighted. The second PDP related to Policy

320, related to uniform and concerns about the claimant's inappropriate footwear and trousers. The claimant had to re-take the course. These PDPs were issued by Mr Asir shortly before he went to Kosovo with the army and it seems the PDPs were followed up by Mr Gifford who acted up while he was away. There doesn't appear to be a signed off date. Mr Asir said at this hearing that the claimant did object to the PDPs in strong terms but that there were things for her to improve upon. The tribunal does not find that this PDP was issued as a form of punishment or because of her reputation. Nor does the tribunal see any evidence that any of the PDPs were issued maliciously. There is clear evidence that different officers brought matters to Mr Asir's attention and it was part of his role to address them with the claimant.

- 46 We now return to allegations in the list of issues closer to the claimant's return in 2015. At Issue 4.14 (and 8.1 i) the claimant alleges that Mr Asir "*before he even met the claimant*" had said she was a "*big mouthed bird who is nothing but trouble*". She did not say anything more about this allegation in either of her witness statements but called Mr Smith as a witness. His witness statement stated that Mr Asir made the comment that he had a "*gobby bird*" on his watch but did not name the claimant. When Mr Smith gave evidence to the tribunal, he said the comment was either that or that "*she*" was "*a pain in the arse*" and he couldn't remember which comment was made. Issue 4.14 also alleges that Mr Asir said the claimant was a "*big mouth, a troublemaker and a crap officer*" but we have heard no evidence to that effect. Mr Asir denies making any of these comments and the tribunal is not satisfied, on the balance of probabilities, that any of them were made. The claimant did not hear them, they are denied and the evidence from Mr Smith is vague.
- 47 The claimant makes other allegations involving Mr Asir. At Issue 4.16 it is alleged that rumours were spread by him about her having been sacked. At Issue 4.24 v (and to some extent at 4.23 v) she alleged that Mr Asir said derogatory things to WM Burrows but gave no further evidence and we did not hear from WM Burrows. The claimant has been unable to show, in the light of Mr Asir's denials and, in view of the fact that he progressed her PDR, that these comments were made.
- 48 Mr Worsam was Group Manager within the Development and Training Department and had responsibility, amongst other things, for those on GES. There was a meeting between Mr Worsam, the claimant and Mr Asir in July or August 2016. There are no notes of the meeting available to the tribunal, Mr Worsam having retired in October 2017. Several matters were discussed. The contents of that meeting are, for the most part, agreed. The claimant stated that she believed she should be posted as Watch Manager B (development). That is, to a more senior WM role to a station with more than one fire engine. Either at this meeting, or at some later date, the claimant was told that the normal progression would be from CM to WM (A) on development. The claimant later referred to some of her male colleagues having been promoted to WM (B) roles and Mr Worsam agreed, on the face of the employment records shown in these proceedings, that that had happened but could not comment on the reasons. His evidence was that it may have been that only WM (B) postings were available.

- 49 Other matters mentioned at the initial meeting with Mr Worsam included the claimant making it clear she was unhappy with her progress, although she accepted that her progress under Mr Asir was quick. Some issues arose about the electronic PDR system and discussions on which watch she would prefer.
- 50 There was a mention of the claimant's wish to have a mentor and it is agreed that Mr Worsam said words to the effect of "*off the top of his head, he couldn't think of anyone suitable*". His evidence was that he checked and saw that the claimant had had two previous mentors. When the claimant was asked, in this hearing, whether she agreed that she had two previous mentors, she said that was not true. She then accepted Pam Oparaoche had been a mentor but only for a very short period. She also accepted that it was for those on GES to proactively find a mentor. The tribunal heard evidence that it was usual for people to seek out their own mentors and there is no policy or guidance that we were taken to, that suggests all employees looking to progress should have a mentor. Mr Worsam's evidence was that he did try to find a mentor but there were difficulties, including the fact that the claimant did not want a female mentor. One was not found for the claimant until 2018. The tribunal has heard no evidence about whether the claimant's comparators, or indeed, anyone else on her GES cohort, had mentors or not. The delay in finding a mentor for the claimant was criticised in Ms Stephenson's grievance outcome (which we come to later) but Mr Worsam does not agree that he acted unreasonably.
- 51 After the meeting Mr Worsam and the claimant communicated about various possible postings. This consideration needed to take account of which watch she could do, because of child care needs and where she lived, and which station was most appropriate. Having checked with his predecessor, who told him that progression should be to WM (A), Mr Worsam then looked for those roles. The claimant did continue to ask for WM (B) roles and said she would send some paperwork to Mr Worsam to support her claim that she should be offered WM (B). Mr Worsam chased the claimant for this paperwork in September 2016. She then sent him extracts from the GES scheme but those did not say anything about GES employees progressing from CM to WM (B). She indicated she had some hard copies but, even though she was reminded by Mr Worsam, these did not materialise. In the hearing, the claimant said she had provided the hard copies but she was then taken to an email of 14 December 2016 where she had written that she was unable to locate them (p1115)
- 52 In October 2016 the claimant sent emails raising issues about repeating CM courses. Mr Worsam had to refer training matters to SM Madeley as he was the line manager responsible for ensuring the appropriate training through the TNA. There are several exchanges about this with the claimant and SM Madeley being involved, the claimant being told she would only have to take courses she hadn't previously taken.
- 53 Mr Worsam's evidence, which the tribunal accepts, is that he continued to look for appropriate WM (A) postings. The claimant repeated that she should be offered WM (B). SM Madeley informed Mr Worsam on 21 December 2016 that he and Mr Asir had met with the claimant and that she had accepted that she should take a WM (A) posting. The claimant denied this conversation took place and Mr Madeley has not given evidence. In summary, some of the men on the

claimant's GES cohort had progressed to WM (B) roles from CM but some went to WM (A). The same is true of the females on the cohort. We address the issue of differing rates of progression in more detail later.

- 54 The way in which postings were identified was by checking with EPT. Mr Worsam communicated with EPT to look for postings for the claimant and others. He received such a list of vacancies on 11 January 2017 but they were in the North East and the claimant had said she did not want to work in that area. Because they were on the claimant's preferred watch, the green watch, he did mention them to her later in January. He cannot be criticised for offering postings as it was open to the claimant to refuse them.
- 55 The claimant complained to Mr Asir and sent an email, which might well have been a grievance, on 31 January 2017 (p1171) as it raised concerns about several matters, such as postings, training etc. The respondent tried to resolve the issues informally but the grievance was later re-submitted in June 2017. That included an "addendum" with complaints about Mr Worsam.
- 56 The claimant suggested there was a vacancy at Stanmore in February 2017 but was then on sick leave. When she repeated her request on 31 March 2017, Mr Worsam discovered it was a WM (B) posting and not appropriate. She suggested later in May 2017 that she could do it on a temporary basis but there was already someone in that role. Mr Worsam mentioned a green watch post in Whitechapel to the claimant around this time, even though it was not in the area identified by her but it seems this was not taken further. The claimant was offered a posting on green watch in Chiswick which was both the right watch and right area (NW) but she declined because of the distance from home in Luton.
- 57 The claimant had a period of sick leave, returning on 11 March 2017. She was unable to attend the Booster course she needed to go on in March, although she could not recall the reason when asked in the hearing. It seems that it was connected to childcare issues. The next one, which was full, was on 2 and 3 May and Mr Worsam asked the trainers that the claimant still be allowed to attend. The claimant had asked that she be considered for any cancellations of that course in an email at the end of March 2017. Issue 4.21 refers to SM Madeley sending her on the Booster course on her off-duty days but there is no evidence about that. She told us that she didn't think she needed to go on the course and also said that she believed she would get a WM (B) posting if she had done the Booster course. She did not mention that in her witness statements. The tribunal is not satisfied that SM Madeley (or, indeed Mr Worsam) knowingly made any arrangements for training on off-duty days.
- 58 The claimant did mention the possibility of spending time on the Command Unit (CU) to Mr Worsam. This was not a WM (B) role but the claimant thought it would aid her development. There is no evidence that it would. Some of the other GES employees had spent some time on CU earlier but Mr Worsam no longer had funding for it and no-one was posted there at this time. The claimant accepted that was the reason provided to her.

- 59 In June 2017 the claimant re-submitted her grievance with an addendum sent later that month. In that she raises further concerns about the postings offered to her and that she had not been “*fast tracked*”.
- 60 The claimant has raised allegations at Issues 8.9 and 13.8 that Mr Worsam was “*deliberately obstructive*” to her and that he “*refused to engage on any level and refused to directly respond to her emails and phone calls*”. The tribunal does not accept that is an accurate description of Mr Worsam’s interaction with the claimant. He did speak to her and he did read and send her emails. He did ask SM Madeley to speak to the claimant about her inappropriate use of the pager to contact him. All the evidence before the tribunal points to Mr Worsam doing his best to find a posting for the claimant, whose requirements and limitations made this not an easy task.
- 61 Mr Worsam retired on 1 October 2017. Mr Herrington, who was a Group Manager, took over responsibility for helping the claimant find an appropriate posting. Whilst the claimant asserted (at Issue 4.26) he was in post for a fortnight, she accepted, in cross examination, that it was closer to four or five months and that he had tried hard to find her a posting. He was in post until around February 2018 when DAC Foster took over. The respondent provided consistent management for the claimant and they all tried their best to assist her with her progression.
- 62 The claimant alleges at Issue 4.4 that WM Digby made comments to FF Gilham and Mr Asir. We have not heard from FF Gilham and Mr Digby denies making any comments to him. Mr Digby gave evidence and denied saying the claimant was useless at her job and a troublemaker. He agrees that there was a conversation in 2017 with Mr Asir where the claimant was mentioned. Mr Digby had worked with the claimant in 2011 for a very short time at Leyton station. He was mentioned in the first tribunal claim of 2012 and was to have been a witness. He denies that he said she was “*troublesome*” to Mr Asir but accepts that he mentioned there being an issue of trust. Mr Asir recalled that Mr Digby said something to the effect that he felt sorry for him as the claimant was a nightmare to manage. Although the precise words cannot be ascertained, the tribunal is satisfied that Mr Digby was not complimentary about the claimant, whom he had found difficult to manage and he said something to that effect, which Mr Asir, then mentioned to the claimant.
- 63 Change Manager Ms Stephenson was dealing with the claimant’s January/June grievance mentioned above. The claimant attended a meeting with Ms Stephenson on 4 September 2017 and received the outcome on 1 November 2017. This is a very detailed and thorough outcome document (P1354 – 1361).
- 64 Ms Stephenson did not uphold the grievance, setting out her findings in detail, except in respect of the delay in Mr Worsam finding a mentor. Having spoken to Mr Worsam and the claimant, Ms Stephenson found that Mr Worsam had made reasonable attempts to find a posting on the green watch in the NW area.
- 65 She made these recommendations:-

Recommendations

I wrote to you on the 27th October 2017 to let you know that I am going to recommend an

action plan that the officer now responsible for leading on the Graduate Entry Scheme. GM Matthew Herrington, takes forward.

My reason for doing this is to continue to aide your development with a proposal that includes identifying a suitable posting for you.

All Graduate Entry Scheme delegates have had their development managed on a day to day basis by line managers. And I am recommending that your on-going development will continue to be managed on a day to day basis by your line manager assessor and that this person will be your main point of contact for all matters related to your day to day development.

Your line manager assessor will be responsible for developing and agreeing your action plan and assessing the Personal Development Logs you provide so that you are able to move forward with your formal assessments in order to complete your PDR.

GM Herrington will of course be available to provide guidance and support to both you and your assessor on request.

I am also proposing that a mentor is sourced for you and that this recommendation is factored into your action plan.

- 66 The same day, the claimant appealed the grievance outcome. She wrote a detailed appeal, commenting at the outset that:-

"I intend to appeal this finding on the basis that the decisions arrived upon are in part based upon lack of evidence, in some cases factual inaccuracies and largely an unjust and corrupt grievance process that remains 'in-house' and impartial"

- 67 In summary the claimant appealed on 5 grounds; the time it took for her to be offered a WM (A) post; no acceptable post being offered; no mentor being appointed; not being able to communicate directly with Mr Worsam and the implications of a new structure which was to be implemented (Role to Rank).

- 68 On 22 November 2017 there was a hearing to consider the claimant's appeal of the grievance outcome before Ms Hale, Personnel Development Manager. The tribunal has notes of that hearing (p1370 notes). In the course of the hearing Ms Hale sought to discover what outcome the claimant wanted. She stated she wanted green watch not too far from home but was no longer interested in a CU role. She also mentioned still preferring a WM (B) role.

- 69 The claimant was sent the outcome of the grievance appeal on 20 December 2017. Again, this is a detailed document which considered the points raised by the claimant and what had happened about trying to find a WM (A) role for her. Again, Ms Hale made some concluding remarks about taking matters forward:-

"I have asked GM Matt Herrington to arrange the meeting with you at the earliest opportunity in 2019 (presumably should read 2018). At the meeting he will discuss potential postings. mentoring and your ongoing development.

From discussions in the meeting with you on 22 November, it was apparent that you do not feel your line managers understand their responsibilities in your development and what being on the GES means. Therefore, I have also asked GM Matt Herrington to also arrange to meet

with them to explain this and ensure there is a shared understanding”.

- 70 In January 2018 the claimant met with Mr Herrington. In an email after they met, he recorded that there was no “*perfect match*” but that Willesden Blue Watch and Harrow Red Watch would be reserved for the claimant to think about. A mentor was sourced for the claimant. Later in January, the claimant said that she would have to delay taking any positing as one of her triplets needed medical attention.
- 71 In the meantime, Mr Herrington had left and Ms Foster, who was Deputy Assistant Commissioner, took over responsibility for GES employees and therefore for the claimant. In her witness statement, Ms Foster summarised her own progression from Firefighter in 2002, to Crew Manager in 2009, WM (A) in 2010, WM (B) in 2011, Station Manager in 2013, Group Manager in 2015 and DAC in 2017. The claimant accepted a posting as Willesden WM (A) on development on 19 April 2018. Ms Foster was still responsible for overseeing the claimant’s progression when the claimant became Station Officer in Finchley in October 2021.
- 72 In April 2018, the position of the male comparators was that two of them had progressed to Station Manager (SM) whilst the others had remained where they were at May 2015. Two of the females had remained as WM (B) and the other had become a WM (Specialist).
- 73 In written submissions, after questions to witnesses about this and consideration of the employment records, the claimant’s representative, set out, in some detail, the progression of the male comparators by reference to the posts they had progressed to and when. This showed many of them progressing to one or more posts some years before the claimant. We have not cross checked all those dates because the issue before the tribunal is as set out under the first claim at issue 4.28 and needs the evidence as at the date of presentation of that claim, 2 April 2018. In any event, two of those remain the same rank as the claimant whilst others have progressed, some just one rank above and others further.
- 74 The claimant presented her first claim in these proceedings on 2 April 2018

Second claim

- 75 The claimant started at the posting as WM (A) development at Willesden station on 15 May 2018 (her employment record has the wrong date for this). Her line manager was the Station Manager, Mr Robertson, who had begun employment with LFB in December 2017, having moved from Bedfordshire Fire and Rescue Service. He was responsible for 8 WMs who were all WM(A)s because Willesden and Park Royal were one fire engine stations. His line manager was BC Davidson who, in turn reported to reported to DAC Hearn. He denied, as did Mr Davidson, that anything negative had been communicated about the claimant to him.
- 76 On 27 April 2018 Mr Davidson, who was Borough Commander, sent an email to all managers in his borough, including the claimant, as Mr Davidson had been informed by DAC Hearn that she was moving to Willesden. The email began:-

"Firstly welcome Rachel on your promotion and hopefully you will enjoy your time in Brent. I'm sure we will catch up after your first few weeks".

- 77 The email then went on to deal with several borough wide issues, concerning standards and uniform with Mr Davidson and included this comment:

"For me I think that shirts should be worn during the day all the time, in the station out of the station I cannot think of any job, barring training/incidents, that would require it to be removed if it gets dirty take it off put one of your spares on and wash that one. Now if it gets too hot take off the t-shirt and wear the shirt if it is too cold put the jumper over the shirt".

- 78 The claimant's complaint about this matter is at Issue 4.30. It is that Mr Davidson failed to send a welcome to the borough email. The tribunal finds that he did send a welcome email and we have heard no evidence about what he sent to Mr Calcutt.

- 79 Also, in Issue 4.30, the claimant mentions an interaction with Mr Robertson. This relates to her first day at the station. Mr Robertson accepts that he did speak to the claimant because he found the rear door/gate of the station open and was concerned, partly because there had been a previous theft from the station. The claimant accepted that it was open and made no complaint at the time about Mr Robertson mentioning it to her. At the hearing she said she felt the discussion *"could have waited"*. She went on to say he was *"critical and hostile"* and she repeated unevicenced gossip she had heard about Mr Robertson from his time at Bedfordshire. Mr Robertson had visited the station and had returned after a meeting to speak to the claimant as he was aware it was her first day. The tribunal is not satisfied that Mr Robertson's actions were anything other than quite proper and in line with his responsibilities.

- 80 At some point, but not that day, Mr Robertson did say to the claimant that shared parental leave was unpaid, but he accepts that was an error and the tribunal accepts that he would have made that same error to anyone who asked, including a male employee.

- 81 On 2 May 2018 Ms Foster met with the claimant who raised various issues including her concern about the R2R process. On 3 May 2018 Ms Foster sent an email to the claimant to explain what she had been told by People Services. Part of the email reads as follows:-

The current situation is that you have received notification and accepted a posting to Willesden blue watch. This will allow you to progress to watch manager and commence your development. This is a WMA position and you will be shown as WMD. Dependant on timescales, your progression pathway following this may be as follows:

- 1. If your development is completed whilst the organisation is in 'role'. you will move to WMB*
- 2. If you are still in development when the organisation moves to 'rank'. you will move to Sub Officer and complete your development in this post*
- 3. If in a Sub Officer position and competent, you will move to Station Officer. completing any development criteria required as set out by the organisation through the role to rank project*

All of the above will progress your career and form the pathway to eventually being eligible to apply for Station Manager, thus completing your participation on the GES.

- 82 Mr Robertson was relatively new to LFB and was to be the claimant's assessor for the PDR. Mr Cartwright who was a SC in Career Development Services and responsible for overseeing PDR systems, sent a detailed email on 16 May 2018 to the claimant and Mr Robertson with links to the relevant policies and guidance. There was then a meeting with Mr Cartwright, Mr Robertson and the claimant to discuss the PDR on the same day. The claimant and Mr Robertson had been invited to the meeting on 11 May 2018.
- 83 Part of the discussion that ensued at that meeting is what the claimant complains about in Issues 4.29 and 13.10. That is that various people, including Mr Cartwright and Mr Robertson, *"failed to accept"* her recognised prior learning (RPL). The tribunal heard considerable evidence about this point. In essence, the respondent's case is that RPL is only taken into account where a CM has been formally acting up as WM (or any rank acting up to the more senior rank). The claimant makes no reference to this aspect in her witness statements. When she was asked questions at this hearing, she agreed that Mr Cartwright had informed her that RPL had to be undertaken when acting up as WM, rather than in her role of CM. The evidence was that the acting up had to be formal rather than ad hoc, although it could be over a very short period. The tribunal finds that was the position about which RPLs could be accepted. There was no evidence from the claimant about the comparators named in those issues.
- 84 The claimant accepted that Mr Cartwright told her all WMs on development had the same PDR and that he had not refused to take any account of RPLs, commenting that he *"wasn't very encouraging or positive"*. The tribunal heard from Mr Sims who is a Business Systems Improvement Manager. He said that employees are free to upload RPLs (as well as other evidence of learning and experience) to the PDR and that the claimant only uploaded one RPL in 2018. Some of her named comparators had none. When Mr Cartwright and Mr Robertson were asked questions at this hearing, they were taken to the respondent's policy at page 789 and 790 which does not expressly preclude evidence from a previous role and mentions acting up on a temporary basis. The tribunal is satisfied that the policy was properly explained to the claimant, was consistent and there was no refusal to accept any RPLs but an explanation as to what could be used. Ms Foster and Mr Ryan had no input to this discussion.
- 85 The claimant met with Mr Robertson on 11 June 2018 to make progress with the PDR. He was not satisfied with the PDLs that she had added and he made suggestions as to how the evidence could be improved. This is recorded in the PDR system and the claimant has commented that she has carried out her duties without *"any guidance, support or assistance"* from Mr Robertson.
- 86 In early July Mr Robertson was informed by Mr Davidson that two people from another team had contacted him to raise concerns about the claimant's communication with them which they considered rude and abrupt. Mr Robertson had also overheard a phone conversation between the claimant and someone else where he also considered her approach was abrupt. The

claimant refers to what later occurred in Issue 4.31. Mr Robertson had also noticed that she had worn a T shirt on roll call, contrary to policy, and she complains about him warning her about this at Issue 4.37. Mr Robertson decided he needed to speak to the claimant about these issues. The tribunal does not accept these were spurious allegations, as described by the claimant.

- 87 Mr Robertson asked the claimant to come into the office for a chat to discuss these matters on 3 July 2018 and, as he put it, she did not react well. She did not accept that concerns had been raised and still does not accept it because she was not told any details of who had complained. As Issue 4.31 makes clear, the claimant's case is that this was a "*spurious allegation*". Mr Robertson's evidence, which was not disputed, was that the claimant did not accept that she had anything to learn from her communication style. By way of another example, Mr Robertson then referred to an email (p1484) he had seen which he also considered abrupt. He accepts that he was wrong when he said it was "*aggressive*" and the tribunal agrees it was not aggressive. The claimant also did not accept that there was anything wrong about wearing a T shirt and said it was at her discretion. Having discussed what had happened with Mr Davidson, Mr Robertson decided he should record the informal conversation in a "Letter 1". This is LFB's standard procedure where there has been an informal discussion, that it should be recorded in a letter. It is not part of any disciplinary procedure.
- 88 Mr Robertson therefore started the process for compiling a Letter 1. The claimant had sent a memorandum on 4 July 2018 on a Form 10, stating that she was happy to discuss her concerns but also happy to "*escalate this via the formal channels*". Mr Robertson drafted the Letter 1 by reference to what had been said and what she had written in the Form 10. He then met with her on 11 July to talk about the Letter 1 and she gave relatively detailed responses. When she left to attend an incident, he then completed the Letter 1, by writing what he remembered she had said. This led to a very long nine-page Letter 1 which he handed to the claimant on 12 July. She commented that he must have recorded the conversation because it was so accurate. The claimant does not dispute the contents. Mr Robertson said to the claimant, and says to us, that he is a trained loggist and can recall what she said. The Letter 1 shows the conversation ended on slightly more positive note:-

"I stated: "I am going to go away and review that for myself, the whole thing that I had in my head was to welcome you to the station, say to you that this was a clean sheet, I don't know anything about you, you are here to run the watch and we will work through your development and that was what I was hoping to get in when you arrived, but it obviously didn't come across like that".

You stated: "Everyday is a school day for all of us, Myself included, no one is a finished article. I am happy to take on what I think are valid points when they are coming from a good place. I didn't feel that at our last meeting it was coming from a good place, there was the email and telephone all getting thrown at me. I didn't feel like it was coming from a good place. Now we have had this I will go away and I will have a think about it. I am not backwards at coming forwards and I do know I have your support but for me there has been this negativity".

I stated: "Hopefully we can work through that".

You stated: "I hope so".

This note will not form any part of your disciplinary record, but will be filed on your Personal Record File.

89 However, on 12 July 2018 the claimant sent an email, addressed to Ms Foster, complaining about Mr Robertson's actions and making a reference to employment tribunal proceedings. She said the working relationship was untenable and she would be sending an online grievance.

90 There was a further PDR meeting on 19 July 2018 which the claimant said she would not attend without another employee which Mr Robertson agreed to. However, the claimant had not submitted any PDLs or other evidence so little progress was made. The claimant was on leave on 19 August when the next PDR was due and, because Mr Ryan was due to take over as Station Manager from Mr Robertson, who was moving to Wembley, the PDR meeting with the claimant was delayed until 15 October 2018 so that Mr Robertson and Mr Ryan could both attend.

91 On 22 July 2018 the claimant sent a Form 10 containing a grievance to Mr Hearn, the Deputy Assistant Commissioner responsible for the NW area (p1501). The covering email said:-

"Andy.

Please find that I have sent the enclosed F10s and not sent to GM Mark Davidson: as he has been named by my SM as the person who allegedly has details of these spurious complaints.

Naturally, I understand due to our historical events you may not be able to be impartial so if you would like to pass this over to another management chain, I am more than happy for you to do so".

92 The reference to "*historical events*" may have been about the fact that Mr Hearn was responsible for the GES in 2009-2011 and was to have been a witness in the first tribunal claim. His evidence, which the tribunal accepts, is that he had no involvement with the claimant again until 2017 when she moved to NW area. In the Form 10, the claimant also said this:

"I feel that SM Robertson has a problem with me because I am a female officer. FF Idiapo has spoken to me and also feels that he does not like strong women. I am extremely concerned about SM Robertson conduct in relation to women in the organisation, this cannot be coincidental that he attempts to PDP a female employee on no grounds whatsoever who happens to be female, and now he raises an allegation with no foundation to me".

93 Mr Hearn did not agree that he might not be impartial but, in any event, he commissioned Ms Dail, who was a Group Manager, to carry out an investigation.

- 94 Ms Dail was to investigate in line with the informal stage of the LFB's procedure. She spoke to FF Idiapo who told her she had no concerns about Mr Robertson having a negative view about women. The investigation was completed during August. In the meantime, the claimant had raised issues with Mr Hearn about what she considered to be Ms Dail's impartiality and mentioning an employment tribunal case. Mr Hearn replied that Ms Dail had completed the investigation. Ms Dail met with the claimant on 24 September to discuss her outcome which was dated 10 September 2018 (pages 1520 – 1526 (appendices to 1549). Ms Dail concluded:-

"During my investigation I have found no evidence that leads me to believe WM Spread is receiving unfavourable treatment from either GM Davidson or SM Robertson, in particular with regard to her gender. There is also no evidence to support WM Spread's view that FF Idiapo is receiving unfavourable treatment from SM Robertson due to her gender or that SM Robertson has any negative tendencies towards women in the Fire Service.

The evidence provided shows both SM Robertson and WM Spread have at times acknowledged each other points of view and differing perceptions which has lead to the current circumstances. Both individuals have indicated a willingness to take part in mediation in order to resolve the matter which I believe is now the most logical and appropriate course of action.

Recommendation

Mediation by a trained mediator should be offered to both parties so that the a professional working relationship can be maintained and both individuals have the opportunity to experience a positive working environment".

- 95 Ms Dail had also sent a 3 page letter to the claimant setting out her findings. The claimant was also informed that she could progress the grievance formally. The same day of the meeting with Ms Dail, the claimant sent an email to Mr Hearn. Even allowing for the fact that the claimant might have been disappointed in the outcome, the email is very critical of LFB and its managers. It reads:-

"I realise that you are aware that Narinder Dail delivered the findings of her 'investigation' to me at station this morning.

I have very serious concerns that the 'investigation' is somewhat flawed and biased. I also doubt the integrity of the findings.

I know as a fact that in spite of her alleged findings; that the named firefighter was offended and actually believed that he did have a problem with her possibly on 'grounds of sex' as it seemed the only obvious explanation.

Also, I have had no facts still as to the alleged complaints. Which I still believe are manufactured. Completely unsatisfactory.

I did expect in this corrupt, masonic organisation for the outcome to be what it is. So although I am disappointed that we as an organisation have not really moved on: but instead rather, package ourselves more attractively. I am not in the least surprised.

I think the fact that you have nominated a person such as Narinder to conduct the investigations in view of her impartiality surrounding me is poor judgement on your part to say the least; if not highly calculated.

For your information I fully intend to appeal the outcome and utilise the "brigade machinery". however unreliable and biased it may be to its fullest. Alongside which today I am lodging a further employment tribunal on grounds of sex to seek justice outside a deeply flawed system".

- 96 Mr Hearn replied and expressed concern about the tone of that email. He advised the claimant again that she could progress the grievance formally.
- 97 Mr (James) Ryan was to take up the role of managing Willesden and Park Royal at the beginning of October 2018. Mr Ryan had moved from Hertfordshire Fire and Rescue Service in October 2010. This move was his first as Station Manager. He met with Mr Robertson to hand over and to be made aware which people were on development. His evidence was that Mr Robertson did not say anything negative about the claimant and that he did not say she was a troublemaker. He knew there were issues about her PDR. Mr Ryan said that he did not know the claimant or know anything about her before his posting. Although he had worked at Leyton at the same time as the claimant some years previously, they were on different watches. The fact that Mr Ryan stated that he did not know the claimant led to her calling him a liar at a later stage, which is, in the tribunal's view, symptomatic of the claimant's problems with hearing views which did not accord with her own. The tribunal accepts Mr Ryan did not recall meeting the claimant many years earlier.
- 98 Mr Ryan's recollection is that their first meeting was a training event on 20 September 2018 when the claimant approached him and asked if he was to be her PDR assessor. He said that, at that stage, he was not aware. After he started at Willesden the claimant sent an email raising issues about other matters and he replied saying that he had scheduled a PDR meeting for Monday (which was 15 October).
- 99 On 2 October 2018 the station manager from Stanmore sent an email to Mr Ryan expressing a number of concerns about the claimant's attendance at a fire. He was considering an IMP in relation to several matters he stated he had mentioned to the claimant. These included her appearance and issues with the fire engine and how the incident was managed, one of which is that he believed seat belts had not been worn by some of the crew when driving to the fire. Mr Ryan replied stating that there should be an IMP because of the range of issues involved.
- 100 The PDR meeting did take place on 15 October 2018 although the claimant suggests she was not warned about it. Mr Ryan had reviewed the claimant's PDR and thought there were gaps which would need to be filled. The claimant started the meeting by complaining about Mr Robertson's handling of her PDR which Mr Robertson sought to explain. There was also a discussion about a number of IMPs which had been entered into the system by another manager. Mr Ryan had no knowledge of these IMPs so the matter could not be discussed. Mr Ryan then gave some guidance on completing the information needed for the PDR, including that the PDLs should cover more detailed incidents. Mr Ryan's evidence is that the claimant said she would not be doing that. When asked about this in this hearing, the claimant said that Mr Ryan wanted "*war and peace*" and that he was "*generating more work than was necessary*". She believed he was making life difficult. Mr Ryan recorded the

discussion and commented *“Overall you are making good progress”* as he wanted to be positive.

- 101 22 October 2018 there was a basement fire in Harlesden. The claimant was the first Incident Command (IC) with Mr Ryan attending a little later. An Operation Review Team (ORT) investigated as there were concerns about how the incident had been handled. In summary, there was an issue about the size of hose jet which was used and whether it was in accordance with best practice for *“weight of attack”*. On 23 October 2018 Mr Cane from ORT wrote to Mr Ryan and Mr Davidson about his concerns and he wrote again on 30 October as he believed an IMP needed to be entered for the claimant as she was the original IC. In summary, the claimant’s case seems to be that more responsibility for any wrong procedure should lie with Mr Ryan than herself. Mr Ryan asked the claimant for her recollection of events but there were differences in the accounts of what had happened as between the claimant and the ORT, specifically around the question of how a hose reel jet had been used rather than what should have been used which was a 45mm jet. Mr Ryan made an IMP entry for the claimant and another officer and anticipated a PDP would be needed.
- 102 On 12 December 2018 a Performance Review of Operations (PRO) was held for the Harlesden incident. The claimant agreed this was standard procedure. This is a meeting of those involved which is chaired by an independent SM, in this case, Mr Cane. It is to discuss the incident and assess whether anything different could have been done. Mr Ryan’s evidence was that the claimant was *“dismissive and rude”* and that may well have been the case as the claimant had disagreed that an IMP was needed. This is the matter the claimant complains about at Issues 4.35, 8.14 and 13.15. The tribunal does not find that Mr Ryan failed to follow the PRO procedure. There was a delay before the PRC could be held but that was, for the most part, because of the claimant’s later sick absence. The next part of the process was a PRC which would look at command of incidents and decisions of more senior officers. This meeting should take place as soon as possible. However, it did not take place until 2020 because the claimant commenced an extended period of sick leave in late February until November 2019, connected to reasons we will come to.
- 103 Although the other issues which relate to the Harlesden fire and the Performance Review of Command (PRC) are complaints about DAC Kavanagh (Issues 4.61, 8.21 and 13.31) and do not occur until 2020 because of the delay, it is sensible to deal with it now. Although Mr Ryan was not line managing the claimant when she returned in November 2019, he was reminded about the PRC on 10 December 2019 and, having checked with senior officers, was tasked with arranging the PRC and checked the availability of those who needed to attend. The PRC was eventually held on 26 February 2020 with Group Commander Davies in the chair. After the event he wrote to Mr Kavanagh, (who had, by this time, taken over as DAC for NW from Mr Hearn) expressing concerns about the claimant:-

“After investigation it would appear that the individual did appear lie to us when challenged about the circumstances of the IMP entries she placed on to the system for SC Ryan.

I clearly asked her, more than once, as did the ORT officer in the PRC, if she had placed the two individual entries and one organisational entry for SC Ryan on to the system as revenge or retaliation for being given an IMP development point.

She stated “No” each time stating clearly that she had placed them onto the system prior to receiving the IMP development point from SC Ryan.

The evidence below shows that she received the IMP development point from SC Ryan on the 28th November 2018 (date approved and issued) and that she submitted the three points for SC Ryan on the 10th December 2018. (Approved 25th January). Please see attached E mail from Ian Clark (Systems).

StARS rota book shows the time period concerned and confirms that that she was at work and would have been aware of the IMP development point that was issued on the 28th November 2018. This therefore appears to be a conduct issue as she has clearly mislead / lied to us at the PRC”.

104 Nothing further which is relevant to the issues happened about that PRC and we now return to 2018.

105 On 23 October 2018 Mr Ryan met with the claimant to discuss IMPs that had been raised about her (not including the Harlesden fire). They covered several issues and Mr Ryan decided to confirm part of the discussion in a Letter 1 which reads:

“I am writing to confirm the informal discussion we had on Tuesday 23rd October in relation to the IMP observation report for incident 139632-01102018 which stated that it was observed your seatbelt on the appliance was connected in such a way that it would fool the on-board system into thinking you were wearing it when in fact you were not.

I stated that it is imperative that you wear your seatbelt at all times when travelling in the appliance as per brigade policy, and that you set a good example for your crew to ensure they follow this practise too.

I also confirmed that if you are found to not be wearing your seatbelt on future occasions, formal disciplinary action will be taken.

You stated that you acknowledge this instruction and will endeavour to ensure that you follow it from this point on.

106 When the claimant was asked questions in this hearing, she said she had had no conversation with the Stanmore station manager. She also said she had not acknowledged the instruction as Mr Ryan had recorded in the Letter 1 but that she had said to him that “no-one or most don’t” wear seatbelts. She said she was the only one penalised and that it should have been dealt with informally. The tribunal has no evidence about action taken against others.

107 On 30 October 2018 Mr Ryan checked the PDR system and saw that the claimant had edited PDLs in line with his advice and he informed her that the assessment period would start for one month so the next PDR meeting would be delayed so she could have time to show competency.

108 On 14 November 2018 Mr Ryan forwarded an email from Mr Hearn to all Willesden and Park Royal watches about uniform standards, adding some comments of his own about uniform, saying that warnings should be given for non-compliance. The claimant replied to Mr Ryan in an email in this way(p1587)

*“As you have included threats of discipline surrounding the wearing of uniform at **ALL** times, I have today consulted both the FBU and HR regarding the content of your mail and the forceful manner in which it has been delivered”*

109 On 16 November 2018 the claimant submitted an expenses claim to Mr Ryan for travel to a medical appointment. The next day he asked her for *“receipts for proof of travel”* as is normal practice. He then heard she had submitted an expenses claim for the same journey, but for a different amount, to another manager and he emailed her to ask why. She replied on 23 November in this way:-

“AS in the first instance the system will not allow the same manager to be chosen again if it is not approved by the manager, so I immediately have to choose another from my team.

However, as you have asked I have never had to provide any travel receipts for my oyster card as what I have provided is oyster card rate for return travel”.

110 Mr Ryan replied the same day, asking the claimant to re-submit to the same manager with receipt of proof from the Oyster card. Later the same day he raised various queries with the claimant about the amount claimed which was £12.70 when his investigations showed the journey should cost £4.80. He said he would process the claim once she provided proof of the expense.

111 On 1 December 2018 Mr Ryan met with the claimant and the expenses claim was discussed. She told Mr Ryan she had been paid a different amount by a different manager out of petty cash and was withdrawing her expenses claim made to him. She also told him that she had used a travelcard which she had thrown away which she denied was contradictory to her earlier explanation that she had used an oyster card. He told her this was unacceptable. This is the matter complained about in Issue 4.36 and 13.16. He told her he would be looking into the issue. He was also concerned to learn that people had been claiming expenses through petty cash as an online expenses system was being introduced. He later sent an email to all WMs reminding them of the online system.

112 Mr Ryan then carried out a Local Management Investigation (LMI) into the expenses claimed by the claimant. He produced a detailed report, containing the email exchanges between himself and the claimant and other information on 19 December 2018 which he sent to his line manager, Mr Davidson. He interviewed two WMs, Harris and Calcutt, about claiming for expenses through petty cash. His conclusion was that the claimant's actions amounted to fraud as

he took the view the claimant had submitted false expenses claims. It was put to him, when he was being cross examined that the following guidance (From Guidance for Managers p405) applied whilst he was carrying out the LMI:-

"If in the course of a local management investigation interview, an employee admits to a breach of discipline (or the manager undertaking the management investigation believes there is evidence that an employee may have committed a breach of discipline), this should be noted and the interview brought to a conclusion. The employee should be advised that a further interview under the disciplinary procedure is now likely to take place where they will be entitled to representation".

- 113 It is not clear when any such interview should have been brought to a conclusion. In any event, Mr Davidson then forwarded the LMI to Mr Hearn who replied on 21 December with these comments:-

"Many thanks Mark.

I've made a few minor changes to format and although I'm not going to suggest its re-written, the report should be written in '3rd person' format. As it stands it reads like a statement from Jim not an investigation. I think we can live with that for now and I've added a line at the start to try and cover it off.

One thing I think would add weight to the report is if we can get confirmation of when the email sent by Jim on 28th Nov at 0845hrs was actually opened by WM Spread. Can you look into this asap before we progress"

- 114 Mr Hearn was asked in this hearing why he made changes and why he suggested that they needed to "add weight". He said they were only minor changes and that he wanted to ensure a crucial piece of information was present but accepted that the adding weight comment was a poor choice of words. He denied that there was any intent to manage the claimant out of LFB. He said it was his job to review the document and, if a person had committed fraud, they should be dealt with accordingly. In the event, Ms Gibbs, who is Head of Advice and Employee Relations, was to look at the matter. Mr Hearn spoke to her and she looked at it again. It was her view, which was contrary to Mr Hearn's that the matter should proceed as Stage 1 rather than Stage 3 as she did not agree it amounted to fraud. She wrote on 24 January 2019:-

"Whilst I do not agree with conclusion of the report, which suggests that this matter constitutes an act of fraud, I agree that WM Spread's actions in relation to claiming her expenses on this occasion were inappropriate and at times she was dishonest and misleading in her interactions with her Station Manager.

As discussed, I consider this matter should be dealt with via local management action, up to and including a stage 1 (conduct) hearing. The allegation would be centred around WM Spread claiming an amount from Petty Cash despite previous dialogue with her SM (which included the amount she should be claiming), her dishonesty or misleading actions during this process and that this falls outside of the expectations of a Watch Manager. If you decide to nominate a SM to undertake a discipline investigation, HR can assist with

drafting the allegation(s).

We also discussed the need to address the actions of the WM (Harris) who paid the expenses out of petty cash to both Wm Spread and Ff Shaw (also via local management action/PDP), and that perhaps a wider training or familiarisation session is warranted, regarding the payment of expenses in general”

- 115 It was suggested during this hearing that Ms Gibbs “*bent to the will*” of senior managers and a small part of a recent ET judgment involving LFB was put to her on this point. This tribunal is acutely aware that cases are decided on facts relating to each case and did not find any general point being made in that judgment about Ms Gibbs that assists us. In the tribunal’s view, the extract above shows the opposite, as Ms Gibbs clearly took a contrary view to Mr Hearn and this led to the disciplinary matter which followed being at the less serious level. As we come to, the claimant was on extended sick leave from 27 February 2019.
- 116 For reasons not fully explained the matter was not progressed until Mr Johnson, who was a Station Commander, was asked to conduct an investigation into the fares matter. He carried out a fact-finding investigation, speaking to the claimant on 12 September 2019 after which she produced a statement (see 2542-2545) in which she complained that it was a spurious allegation and that it was “*discriminatory, bullish and unfair*”. She referred to a number of colleagues who had been asked to re-pay monies paid out of petty cash. Mr Johnson also interviewed Mr Ryan, Mr Harris and Mr Calcutt. He considered that it was serious enough for a Stage 2 hearing but, after discussions with EPT, arranged for a Stage 1 disciplinary hearing. The claimant attended that hearing on 6 February 2020 with Mr Johnson (in line with the respondent’s policy) and with a trade union representative. Mr Johnson made further enquiries and reconvened on 13 February 2020. He then considered his decision which was that there was insufficient evidence to support the charge that the claimant had misrepresented her expenses, partly because of the confusion about petty cash claims. He found the second charge that she had failed to follow a direct instruction from Mr Ryan to provide receipts was proven. He decided to award a six-month written warning.
- 117 The claimant appealed and the matter was referred to Mr McKenzie, who was a Borough Commander, to consider. Mr McKenzie was relatively new to LFB and had no prior knowledge or involvement with the claimant. His decision to hold a review rather than a re-hearing is the complaint the claimant makes at Issue 4.46. Mr McKenzie was asked by Mr Kavanagh to deal with the appeal and Ms Shelat, an HR Adviser was allocated to assist him. He saw the claimant’s appeal letter of 10 May 2020 (2540) which she had sent to Mr Johnson, part of which reads:-

“This correspondence is to confirm that I am appealing the outcome of your decision on grounds that 392a was not carried out as it should have been in accordance with policy. In line with ACAS regulations there are time limitations and guidelines placed on all discipline matters. The timescale of this matter has been extraordinarily obscene”.

- 118 Mr McKenzie read the appeal as being about an alleged breach of LFB policy. He looked at the relevant paragraph of the disciplinary procedure (see above at

paragraph 29) and formed the view the appeal should be a review. He wrote to the claimant on 3 June 2020 asking for clarification of her appeal and she replied challenging the decision that it should be a review.

- 119 There were then several emails between the claimant and Mr McKenzie who set an appeal hearing for 2 July 2020. The claimant had said to Mr McKenzie that the ACAS code entitled her to an appeal and not a review but he did not accept that was a correct reading of the ACAS code as the claimant was being allowed to appeal. Other matters of concern were raised by the claimant and the hearing was postponed to 3 September as Mr McKenzie had received no response to suggested dates. The trade union representative informed Mr McKenzie very close to the hearing that he could not get in touch with the claimant and later asked for a postponement. The hearing went ahead without the claimant and the sanction of a written warning was upheld.
- 120 We return now to the earlier period before the claimant's sick leave and the matters outlined above. On 3 December 2018 Mr Ryan received an email informing him that FF Shaw had failed to attend a Breathing Apparatus course. FF Shaw was usually line managed by the claimant, although she worked flexibly and her line management would depend on which watch she was on. Mr Ryan spoke to WM Harris at Willesden about the matter. He then saw FF Shaw in the gym and asked her about it. She provided a satisfactory explanation which Mr Ryan then provided to EPT and which was copied into the claimant. The claimant later raised concerns with Mr Ryan about FF Shaw being spoken to as she felt she should have been notified. This matter is one of the concerns in Issues 4.38, 8.16 and 13.17, the other relating to Mr Davidson speaking to FF Shaw. When the claimant raised this issue, Mr Ryan said that he would ensure she was kept up to date in future.
- 121 The other FF Shaw issue (also at 4.38, 8.16 and 13.17) was that Mr Davidson spoke directly to her. The evidence we heard was that Mr Davidson had been tasked with getting information about those on flexible working arrangements as part of a LFB review. He arranged to meet with FF Shaw and Mr Harris who was on duty the day of the meeting. Mr Davidson did not consider speaking to the claimant or informing her of his meeting with FF Shaw as he was contacting people on flexible arrangements directly. He also spoke to a male firefighter on such an arrangement. The claimant was unaware of the review until she was told later.
- 122 On 10 December 2018 Mr Ryan was meeting the claimant and she was not wearing the uniform shirt. He asked her to put one on and gave her an informal warning in line with the email he had sent on 14 November. (Issue 4.37). This is line with policy and communications previously sent.
- 123 At this meeting, the claimant asked Mr Ryan about a transfer to Mill Hill. This is issue 4.40 and 13.20. He said he would look into it but added that he would like a positive and productive working relationship with her. Mr Ryan asked Mr Davidson about the transfer and he passed the request onto EPT. Mr Ryan emailed the claimant on 11 December saying:

"EPT informed him that as per policy 651section 2.1 which states 'unless in exceptional circumstances, which may include welfare reasons, staff in the role of crew manager

to WM(B) will not be allowed to apply for a transfer whilst they are on development or in the first two years of a new post following a transfer' you are not currently eligible to transfer to your requested post".

- 124 The claimant replied the same day saying she knew of male officers who were transferred and raising other issues, which she said were welfare issues and Mr Ryan passed that aspect on to Ms Foster. Ms Foster later told the claimant that she believed a transfer would be detrimental to her progression. As the claimant had, by this time, presented a grievance against Mr Ryan, that needed to be investigated first.
- 125 On 13 December 2018 Mr Ryan suggested to the claimant that they carry out a health and safety walk around which formed part of her PDR. The claimant accepted in the tribunal that this would possibly progress her assessment but she refused as she had come off the night shift and she thought it was a day shift job. She was concerned she had been given no notice. She commented that the request was "*completely unreasonable*". Mr Ryan's evidence was that he had carried out a health and safety check walk around in this way with Mr Calcutt. This might be part of the concern raised in issue 4.34 but that issue might also include the 15 October meeting referred to at paragraph 100.
- 126 On 13 February 2019 at 17.37, Ms Foster sent an email to the claimant setting out what the talent team had ascertained by looking at the claimant's ePDR. This email is very detailed and appears to be intended to be helpful as it points out where there were issues with some of the PDLs entered by the claimant. For instance this specific information was provided (p1682):-

"PDL's - WM7

5 PDL's were submitted in June, July and August 18;

only 3 of these can be used

— person in precarious position

— 2 pump fire

— 6 pump fire

PDL's 3.6 and 3.7 cannot be used as these are generic statements without specific incidents. No further PDL's have been submitted since August last year. Informal feedback has been given on all PDL's. The first PDL by the previous assessor and all further PDL's with the new assessor on 15 October 2018".

- 127 DAC Foster concluded in this way:-

Overall

There are a lack of PDL's in this PDR: it was created May 2018: and only 13 PDL's have been submitted with no PDL's in 3 units. The record of development can only occur when PDL's have been submitted e.g. via informal feedback. PDL's are fundamental to create discussions in review meetings. The assessment phase cannot be accessed until there is sufficient development recorded.

I will be contacting your assessor separately with the review findings and agreeing a way forward to progress your PDR. In the meantime, I am aware that you have been contacted regarding the assigning of a mentor and we await your response in order to progress this.

- 128 On 14 February 2019 at 01.40, said to be in reply, the claimant sent a grievance on a Form 10 to Ms Foster (dated 6 February). She named Mr Robertson, Mr Ryan, Mr Davidson and Mr Hearn and raised several concerns about their management of her, some of which are referred to above. She stated that she had not progressed as her male counterparts had and commented:-

"This is a very institutionalised. masonic and corrupt organisation whereby if people want to progress you they will and if they don't they won't. Moreover because it is a predominantly male environment. There are more male senior officers than female"

- 129 She raised several issues about the named officers, much of it, it seems to the tribunal, to be based on what other officers have told her rather than any direct concerns of her own – though there are some of those. The claimant alleged that Mr Davidson had become defensive and aggressive in a meeting on 23 November 2018, that other watches had described this demeanour too and that he had sworn at a meeting on 15 November 2018 in a discussion about uniform. As the tribunal understands it, the claimant was only present at the 23 November meeting. The grievance is lengthy running to six closely typed pages containing wide ranging concerns. Mr Davidson was not aware of this grievance until 18 March 2019 when Mr Hearn informed him of it.

- 130 On 27 February 2019 the claimant with her watch and other NW watches attended a training event at Wembley. What is alleged to have occurred is the subject of Issues 4.42, 8.17 and 13.22. There were between 20-30 attendees. BC Davidson noticed the claimant and her watch come in a little late as he was making a presentation. Whilst her watch went and sat at the front, the claimant sat at the back. Mr Davidson described what he recalled as having happened in a memorandum the next morning which he stated he took from notes he made. He recalled (p1725) that the claimant's body language was negative, described as sitting at a 90 degree angle facing the wall. He said she would not make eye contact and he believed there was a lack of engagement with the session. At the end of his session, he described the claimant giving him a look "*dripping with contempt*" and this led to him indicating to the claimant to leave the room with him. He wrote:-

"We left the room and had a conversation outside the HR office. I asked what her problem was and the negative body language and what the look at the end of the session was all about?"

- 131 He went on to say that the claimant denied that her behavior was negative and he said she should engage and show some respect. At that point, Mr Davidson says, the claimant said words to the effect that she didn't have a problem, that he should not speak to her like that and that he wasn't her father. Mr Davidson said that he kept his voice low but that she shouted. She then left the session and his memorandum was to the effect that he believed her behaviour fell below what was expected of a WM.

- 132 The claimant's version of what occurred is somewhat different. She appears to make the first mention of the incident in writing on 4 March 2019 to Ms Chase of HR (p1735) where she says this:-

"I in fact went sick with work related stress due to GM Mark Davidson singling me out via use of gesticulations during borough training in front of a room full of circa 40 witnesses at Wembley; to ask me what was looking at and why was I looking at him in a certain way? There were 3 females in attendance, I was one. I was the only female officer. To have a large imposing man single me out, was demeaning, intimidating and offensive. A HR advisor Perry also overheard the exchange. Therefore I request that my complaint re Mark Davison be viewed under policy 529"

- 133 The claimant's evidence is that she went to the police immediately but the records seem to indicate she went to them on 16 March. In that police statement the claimant said that Mr Davidson's demeanour was *"menacing and imposing"* and that he asked her what she was *"f...ing looking at"*. The claimant also made a complaint to the respondent about the incident on 2 April 2019 (page 1875).

- 134 A very detailed investigation into this incident and the 14 February grievance (where it related to Mr Davidson) was carried out by Mr Hearn under the harassment policy. The claimant refused to meet with Mr Hearn but provided a written statement instead. The claimant was on sick leave with stress and anxiety, she believes, as a result of this incident, until November 2019. HR advisers and SC Murray spoke to all the people named by the claimant for the 14 February grievance and none fully supported what she said. Three people agreed that Mr Davidson had sworn at the 15 November meeting but that it was not aggressive.

- 135 The number of people spoken to about the 27 February incident was extensive. The analysis in the investigation reads:-

"Analysis

17 of the 18 witnesses recall Willesden's crew arriving late for the training day (the other witness arrived later for the training day due to an appointment, so wasn't present when Willesden's crew arrived).

Two of the 18 witnesses (WM Clare/CM Amit Joshi) stated that during the presentation, WM Spread didn't seem to be giving it her full attention. She seemed distracted and it appeared that she wasn't focusing on the presentation in front of her. The WM stated 'WM Spread's body language was almost like she didn't want to be there. She was slumped in her chair and looking at the floor'.

Nine of the 18 witnesses stated that they did not observe GM Davidson ask WM Spread to step outside the room with him or see them leave. They became aware that the two were outside the room when they heard raised voices. Six of the 18 witnesses stated that they observed GM Davidson either gesture and/or ask WM Spread to step outside the room so he could have a word with her and it was done so in a normal, discreet or reasonable manner. Four out of 18 people only observed them leave.

16 of the 18 witnesses stated they heard a raised voice or raised voices (16 witnesses identifying WM Spread's voice or a woman's voice and five identifying GM Davidsons voice or a male voice). 14 of those 16 state they heard WM Spread say something along the lines of "how dare you speak to me like that" in a raised voice.

No witnesses recalled GM Davidson ask WM Spread "what are you looking at" and/or "why are you looking at me in a certain way" or use any swear words. Specifically, WM Horn spoke to WM Spread after the incident with GM Davidson and asked her what had happened. WM Horn states that WM Spread said 'He (BC Davidson) called me out and asked why I was looking at him that way and also why I was not engaging in the session and that I should go back in the room'. WM Horn does not recall any swear words being used or WM Spread mentioning GM Davidson having an intimidating/imposing or aggressive demeanour.

All 18 witnesses stated that they have never witnessed or cannot recall witnessing GM Davidson ever acting aggressively or inappropriately during this event.

- 136 The tribunal also heard from Ms Shelat who was in an office next to the training room on 27 February 2019. Just before lunch she became aware of raised voices in the corridor. She heard a female voice saying something like "*I'm not having this*". She did not know that the voice was that of the claimant. She provided a statement later when asked by Mr Hearn.
- 137 The tribunal finds, on the balance of probabilities and on the basis of all the evidence before us, that Mr Davidson's version is more likely to be closer to the truth of what occurred. The claimant is prone to exaggeration. She made no mention of Mr Davidson swearing or being aggressive in her first description of the incident, concentrating instead on Mr Davidson's request for her to leave the room to speak to him. The tribunal does find that Mr Davidson may have asked her about the look that he believed she gave him, as mentioned in his email the next day but we do not find that he swore or invaded her personal space. It is much more likely that the claimant was the one who raised her voice and became agitated. He did not behave in a threatening manner or use aggressive language.
- 138 The claimant was on sick leave from 27 February 2019 and her base posting remained as Willesden (issue 4.57). The tribunal accept this is common practice when it is not known how long someone would be away from work. It does not seem to be a detriment.
- 139 At some point in February or March, Mr Wolfenden, who was a Station Manager and nearing retirement, was asked to be the claimant's contact manager whilst she was on sick leave. The tribunal read Mr Wolfenden's witness statement and he was cross examined. Although his evidence is, for the most part, supportive of the claimant, he suggested that an authoritarian attitude has become more common since Mr Roe took over as Commissioner in Dec 2019 which does not fit with his concerns about the alleged treatment of the claimant, when he was involved between February 2019 and October 2019. In any event, Mr Leader asked Mr Wolfenden to be the claimant's contact manager, Mr Wolfenden believed, because he was thought to be a fair and accurate manager.

- 140 During cross examination, Mr Wolfenden, who has now retired, made reference to having heard about the claimant from a “*few conversations with various people*” as well as speaking to the claimant herself. Although not contained in his witness statement, when he was being cross examined, he said that he had been at a meeting with borough managers in June/July or August 2018 when he heard Mr Davidson say something to the effect of “*Don’t worry, I’ll deal with it*” referring to the claimant. Mr Davidson denied saying this as did other witnesses who might have been present. The context of this comment, if it was made, is unclear and is a little difficult to understand but may be the basis for the claimant’s allegation at the end of Issue 4.52 that the respondent was trying to get rid of her. Mr Wolfenden also made reference to the claimant being dismissed which had not occurred. He commented that the disciplinary case (in 2011-2012) was unjust but accepted that he did not know the details but that there had been a long suspension. The tribunal is not satisfied that Mr Davidson said anything about “*dealing*” with the claimant or, if he did, it is taken out of context and may not necessarily mean that he intended to move her out of the workforce. It could have meant, even if it had been said, that he would help her move forward on progression which had been stalled in 2018.
- 141 In connection with the 14 February 2019 grievance, the claimant had been informed that the grievance about Mr Ryan’s management of her would be investigated but that it would not include the fares issue which was being dealt with under the disciplinary procedure. Matters about Mr Davidson were being dealt with by Mr Hearn.
- 142 On 5 April 2019 the claimant attended a grievance hearing with GC Kempton with Ms Shelat as an HR Adviser in attendance. The claimant was accompanied by Mr Hunter from the FBU and notes which we have seen were taken by a Mr Larrington. It was a lengthy meeting. The claimant challenged the decision to treat the issues raised about Mr Davidson separately. The matters the claimant had raised about Mr Ryan were discussed in some detail. The claimant complains at Issue 4.45 and 13.24 that Mr Kempton was “*aggressive and obstructive*”, that he interrupted the claimant and that he refused to allow her to produce evidence (some emails) and to listen to a voice recording. The notes do not show that any such behaviour occurred. The claimant’s case is that some things have been left out of the notes. The notes indicate that the claimant said she would send some copy emails after the meeting. There is a reference (page 1829) to a recording but no suggestion that it was offered by the claimant and no refusal to listen to it by Mr Kempton. The tribunal has no idea what that recording might show and notes that the claimant had referred in preliminary hearings in the tribunal claims to having recordings which we were never asked to listen to.
- 143 When Ms Shelat was asked questions in this hearing, she referred to some handwritten notes that she had made in the hearing, so arrangements were made for the tribunal to have copies of those notes. Ms Shelat’s evidence, which the tribunal accepts, is that Mr Kempton was professional and polite and listened to what the claimant said. That is borne out by her own notes and those taken formally. Mr Hunter, the trade union representative provided a witness statement for this hearing but was not cross examined. His statement was supportive of the claimant but did not mention any untoward behaviour by Mr Kempton in this meeting. Neither set of notes is verbatim, of course, and people

cannot be certain about what was said or not. The tribunal does not accept that Mr Kempton displayed any of the negative attitudes the claimant asserts.

- 144 In May 2019, Mr Wolfenden suggested to Mr Leader, his line manager, that the claimant could be posted to Mill Hill station, one of the stations for which he was responsible. Mr Wolfenden's evidence was that there were vacancies at the WM (later Sub O) level. When he was cross examined, he could not remember which watch the vacancies were on. He understood that, although the OH advice was that the claimant was unfit for work at that time, the suggestion was that she could return under different management. He also referred to advice from a GP which the tribunal has not seen. The OH report of June 2019 has this comment under "*prognosis/estimated time for return to work*" (page 2074) which reads:-

"I think that it would be very difficult for her to return to work given that the situation is still very charged. The barriers to returning to work are non-medical"

- 145 Mr Hearn's evidence was that he recalled the suggestion but that it was a matter for the local Borough Commander, Mr Leader, and that he understood his view was that there were no vacancies and that he had people on development. The tribunal is not satisfied that there were any vacancies on a watch suitable for the claimant, or at all.

- 146 The claimant presented her second claim in these proceedings on 23 May 2019.

Third claim

- 147 On 31 May 2019 Mr Kempton sent the outcome of the claimant's grievance about Mr Ryan to her. It starts at page 2048 of the bundle and goes to page 2054 so it is a lengthy and detailed document. His conclusion is long but worth quoting in full. It reads as follows:-

"Having considered all the information at the hearing, subsequent investigation and information gathered (including from yourself), my decision is that your grievance is not upheld.

The reasons for my decision are;

SM Ryan not acknowledging his previous encounters with you

There is no evidence to support this and further more, it is my opinion that SM Ryan has no underlying motives in denying knowledge of knowing you as was intimated within the hearing by you.

Lack of support from SM Ryan through the PDR process

The evidence within the PDR system has demonstrated that appropriate and reasonable support has been provided. Throughout the duration of SM Ryan being your assessor, I feel he has been supportive and encouraging in terms of direction and clear expectations. On many occasions I have found positive and encouraging feedback as captured within the Review Meeting process, whereby SM Ryan has set clear objectives within each element. The review meetings are extremely comprehensive whereby you have been tasked with achieving SMART objectives in a timely manner. SM Ryan appropriately checked the

quality of your evidence with the Development Centre and tasked you with adding more detail to your PDLs to avoid unnecessary delay when the PDR would be submitted after completion. To reaffirm parity, cross mapped your PDR with other WMD PDRs and Review Meetings. Its clear from this, that a consistent and supportive approach is being applied across the WMs under development. Therefore, I feel you have been treated in a reasonable and fair way in line with other WMDs. In terms of SM Ryan stalling your development, I have seen no evidence to suggest this. In fact, he was comprehensive in setting out the objectives you needed to achieve to effect Watch Manager sign off, some of which were not always achieved by you.

Number of PDP's allocated by SM Ryan for you

I have comprehensively reviewed all the IMPs and PDPs issued to you. The evidence has shown that appropriate process has been followed by SM Ryan and is in line with Policy. Although you have stated SM Ryan issued 5 PDPs, in fact only one was observed and raised by him. The others were raised following IMP points allocated to you by other officers. This in turn needs to be discharged by way of a PDP which is a tool to help and assist you develop in those areas. After analysis of each of the IMPs and PDPs. I feel all were appropriate. You had intimated that one PDP was formulated in such a way which was sexist and referred to a female voice. In my opinion this was not sexist and in fact all development points were salient and appropriate. These points should be embraced and seen as an opportunity to gain further knowledge and develop in the identified areas, which needs to be reaffirmed organisationally

Unreasonable amount of work allocated by SM Ryan including unachievable timescales, duplication of work and being treated differently to male counterparts

You have intimated a barrage of emails were sent to you from SM Ryan to give you a greater workload with areas of duplication and unachievable timescales. I felt the number, tone and content of SM Ryans emails were courteous, encouraging and in keeping with the emails he sent to the other WMs. In terms of duplication and timescales I saw no evidence when sampling emails to other officers that you were treated differently or unfairly. In fact, during sampling of a wide range of emails, whilst I felt SM Ryan was appropriate in the tone and content of his emails to you, I felt your responses did not always extend him the same level of professionalism as he'd extended you.

You stated on several occasions that you were treated differently by SM Ryan to that of your male counterparts. I take this allegation extremely seriously and as such this was at the forefront of my mind whilst carrying out my investigation. I can conclude however, that no evidence has been identified to concur with your allegations. In fact, the evidence and more so my opinion, is that SM Ryan is an extremely supportive and encouraging officer within LFB who has extremely strong morals and standards when it comes to inclusion and equality. He has demonstrated this by adhering to a high standard of professional conduct, in the face of some of your less than professional responses.

- 148 On 6 June 2019 Mr Wolfenden had an attendance support meeting with the clamant as her contact manager. He confirmed in a letter (p2067/8) what had been discussed, that she was unfit for work and that there was an outstanding application for her absence to be recorded as "due to service". This was because Mr Wolfenden had completed a sickness absence classification form on 2 April 2019. He crossed the box for the matter to be referred to a

management meeting, but it is generally accepted that he intended it to be a recommendation for the sickness absence to be recognised as due to service. The procedure was that it would be referred to a management meeting. There had been a decision to postpone a decision until after the incident on 27 February involving Mr Davidson had been investigated as that was the service incident relied upon. (p1848). The eventual decision that the sickness would not be approved as due to service was communicated on 19 July 2019 by Mr Amis who was on the panel which decided. It gave reasons at p2103:-

“The panel considered the outcome of the management investigation as detailed in the letter to you dated 11 June 2019 from DAC Andy Hearn. The outcome found there to be no evidence to substantiate your claim of bullying and harassment and therefore your period of sickness has not been considered to have arisen out of, or in connection, with work”.

- 149 This is a reference to Mr Hearn’s letter of 11 June 2019 to the claimant which contained the outcome to her complaint about Mr Davidson, which Mr Hearn considered under the harassment policy. The claimant’s complaint about the 27 February incident is as explained above at paragraphs 134 and 135 and is not now repeated. The claimant had also raised issues about matters involving Mr Davidson in November 2018, as mentioned, and a later matter. Mr Hearn’s letter made it clear these matters had been investigated and they were now closed.
- 150 On 20 June 2019 the claimant sought to appeal Mr Hearn’s outcome and was told on 26 June that she could raise a grievance if she was still not satisfied and that her letter would be treated as a grievance.
- 151 On 3 July 2019 the claimant sought to appeal Mr Kempton’s findings on her complaints about Mr Ryan but the appeal was out of time and it was not accepted.
- 152 On 23 August 2019 the claimant attended a grievance hearing with respect to her pay reducing to half pay, which was a consequence of her claim for sickness to be recognised as due to service being rejected. Her full pay was extended to 10 September 2019.
- 153 On 20 September 2019 Mr Amis, who was Head of Wellbeing, sent an email to Mr Wolfenden, to remind him, as the claimant had been absent on sick leave for more than 6 months, that a stage 1 capability hearing should be arranged. Mr Amis’ evidence was that he wanted to ensure consistency and the policy (see extract at paragraph 29) said such a hearing “may” be arranged and it was common practice for such hearings to be arranged. Mr Wolfenden replied on 23 September 2019 to the effect that he had not arranged it as he understood the claimant was returning to work at the end of the month.
- 154 Mr Amis reminded Mr Wolfenden that the Stage 1 hearing should still take place. Mr Wolfenden replied again to say there were other issues still unresolved including the outstanding matter of the due to service rejection (which the claimant had appealed) and grievance about the reduction in pay. Mr Amis also became aware that Mr Wolfenden was not the claimant’s line manager so he asked Ms Durand to arrange for another station commander to

arrange the first stage capability hearing which took place on 11 November 2019, shortly before the claimant returned to work. The tribunal does not accept the holding of a stage 1 capability hearing is any detriment to the claimant. The policy allows for it and the tribunal accepts it was normal practice (Issue 4.52).

- 155 On 16 October 2019 R2R was implemented and the claimant's job title changed to Sub Officer on development from WM on development. Other job titles also changed as set out above. Mr Kavanagh took over responsibility as Deputy Assistant Commissioner for LFB's NW area from Mr Hearn in November 2019.
- 156 The claimant returned to work carrying out light duties at Finchley station on 13 November 2019. Her line manager was Mr Gleeson, the Station Manager, who provided a statement for this hearing but was unable to give evidence. The original intention was that the claimant would be involved on a project "ORD" (Operational Risk Database), also called ePiP, but this was based in Camden because the focus was high rise buildings. (Issue 4.51) The claimant was not prepared to drive to Camden so it was agreed she could be based at Finchley but that she would need an LFB car as one was needed for the work. It transpired that no cars were available.
- 157 Mr Gleeson decided that it would therefore be sensible for the claimant to concentrate on her own development. At Issue 4.56, the claimant states she was "*ostracized and left in a remote part of the station*", and she says she had no meaningful work. In his witness statement Mr Gleeson stated that he told her she could work wherever she was most comfortable. The claimant stated, in her supplementary statement, that she was "*placed in solitary confinement*". She was asked questions in the hearing about this and she was adamant that was an accurate description of her position. The tribunal does not accept that is an accurate description, given Mr Gleeson's obvious attempts to help her return to operational duties.
- 158 Mr Gleeson emailed staff on 18 December 2019 to ask them to assist the claimant by allowing her access to printers and computers as well as including her in drill sessions. Mr Gleeson also agreed to her having "*excused attendance*" which is paid time off to assist with childcare.
- 159 The claimant, at Issue 4.58, also complains that she was not given a TNA but that she was responsible for her own. It is quite clear that Mr Gleeson was involved in devising a TNA, had meetings with the claimant to discuss the TNA and had arranged for her to be booked onto various necessary courses. When the claimant was asked about this in the hearing, she agreed that Mr Gleeson had written the TNA and that it was normal for there to be refresher courses after a lengthy absence. She also agreed that Mr Gleeson had arranged training at a place where she did not have to meet a trainer she had had an issue with. It is factually incorrect that there was no TNA and that the claimant was responsible for her own training. The claimant did return to operational duties in March 2020.
- 160 At issue 4.59 the claimant raises concerns about her kit, with allegations that Mr Ryan and Mr Gleeson did not act quickly enough about her kit being returned. This relates to the policy whereby the PPE kit of an officer who is on long term sick is sent to Bristol where that equipment is stored. Mr Ryan's evidence was

that there was an oversight and it was not sent to Bristol and he asked for the items to be stored safely. He was no longer based at Willesden when the claimant returned to work and was posted to Finchley. When Mr Gleeson was told there were items missing, he took the view they were ancillary items and provided all equipment to the claimant in June 2020. The claimant gave no evidence about attending dangerous situations without the correct equipment.

- 161 On 27 November 2019 the claimant's appeal against the decision of her complaint involving Mr Davidson was rejected. The claimant had attended the hearing in September with Mr Hunter of the FBU. DAC Drawbridge set out details of the process and his decision in a letter at p 2196

"In my letter dated 11th October, I agreed to explore the rationale for your complaint against GM Mark Davidson being dealt with at a local 'informal' level under the Harassment Complaints Procedure (HCP) (policy number 529), as advised in emails by People Services and DAC Hearn.

Having reviewed all relevant documents and considered the representations from yourself and your representative, based on the information available to me I am satisfied that proportionate and appropriate action was taken to establish the circumstances of the incident which satisfied organisational requirements. The decision to conduct a local (informal) investigation was in accordance with HCP policy and could have been escalated if required. However, in fact, the investigation completed would have satisfied formal requirements under the policy.

Having considered all the information available to me, my decision is that your grievance is not upheld.

The reasons for my decision are that in the absence of any additional evidence to the contrary and based on the information available to the investigating officer, I am satisfied that a thorough and appropriate investigation was carried out in accordance with policy requirements"

- 162 In December the claimant had asked about carrying over annual leave to the following leave year. On 13 January 2020 the claimant sent a grievance about her entitlement to carry over leave (Issue 4.55), stating that a "*male counterpart*" had been allowed to carry over leave. Mr Kavanagh checked with HR and 10 days were agreed to be carried over. There was no refusal of her being allowed to carry over leave. If the claimant is alleging the days allowed were wrong, the tribunal is unable to come to a conclusion on that as the calculation appears, on the face of it, to be correct.
- 163 In February 2020 the claimant raised an issue about losing her white helmet. In summary, the colour of helmets worn at an incident denotes rank. R2R had led to a change so some people, including the claimant, lost the right to wear a white helmet, being required to wear a yellow helmet instead. This forms the basis of issues 4.63, 8.23 and 13.23. The appropriate colour of helmet depended on what an individual's rank was as at 5 September 2017, the date of

signing of the R2R agreement. SC Kenny, who gave evidence to this hearing and who had detailed knowledge of R2R, set the position out in an email to SC Robinson and Mr Gleeson on 13 February 2020. Those who were WMs at that date were “ring fenced” but, Mr Kenny said:-

“On the 5th September 2017, Rachel Spread was a Crew Manager at Finchley GW (according to the StARS). As such, she did not meet the ring-fenced criteria as set out in the R2R agreement”

- 164 On 27 February 2020, in response to an email from the claimant, Mr Kenny wrote direct to her. He said:-

“Whilst you are not a ring fenced sub officer under the terms R2R, you are, as confirmed in the letter dated 7 October 2019, a sub officer on development. Therefore for the reasons set out above, you have been issued with the rank insignia and helmet of a Sub Officer”

It was identified that there were twelve sub officers who were still on development prior to the implementation of the R2R Agreement. All received an email detailing the decision set out above and clarifying that at the point they completed their development, they would then be able to wear the rank insignia applicable to a Station Officer under the ring-fencing criteria. You would not have received the email as you were not ring-fenced under the R2R Agreement. However, I understand that Station Commander Robinson has explained to you why you have been issued with a yellow helmet.

- 165 In answer to this question from the claimant:-

“I would like to know how many are male and how many are female?”

He replied *“Nine are male and three are female”*

- 166 The tribunal was impressed with Mr Kenny’s knowledge for R2R and are satisfied the claimant was given accurate information about the helmet issue. Whilst she was disappointed, so were others also affected and there was nothing about being on GES which made any difference to this matter.

- 167 On 12 February 2020 the claimant sent a harassment complaint naming Ms Gibbs, Mr Amis, DAC Hearn and Mr Ryan. It is a 6-page document and appears between pages 2252-2257. In summary, it raises concerns about what had happened since her return to work in November 2019 as well as some issues during her sick leave before that. She complained about a delay in being able to return to work; the stage 1 capability hearing; the processes used for various matters raised previously and harassment by Mr Ryan because of *“continual pursuance of a request to a PRC that falls outside policy 421”*.

- 168 This complaint was rejected on 26 February 2020 by Tim Powell, assistant director of people services in a letter (2275-2278). The decision is set out after earlier explanations:-

“Decision

For clarity, based on your submission and for the reasons provided above I do not consider that further investigation or action is warranted in accordance with the Harassment Complaints Procedure (PNSZ9) in respect of any of the individuals you have named.

From my review, it appears that you have raised this complaint primarily because Managers have made legitimate decisions (correctly in line with the relevant policies and procedures) that you do not agree with. This however does not constitute bullying and/or harassment, as you have suggested in your correspondence.

I am aware that you have raised a number of complaints of harassment which you are perfectly entitled to do. However, I would draw your attention to paragraph 3.6 of the Harassment Complaints Procedure which relates to spurious and vexatious complaints. You should be aware that the Brigade has a number of policies and procedures in place, such, which management are entitled to utilise. Going forward I would encourage you, should any issues arise, to first attempt to resolve the matter informally before raising formal complaints.

This concludes the my review of this matter. There is no right of appeal to the outcome of this review. Therefore from an internal perspective this matter is considered closed”.

- 169 The PRC regarding the Harlesden incident which is described earlier in this judgment was held on 26 February 2020.
- 170 It came to the attention of Mr Kavanagh that the claimant was working a nine-day fortnight and that she also had 2 days every fortnight treated as “*excused attendance*” (“EA”). This is the matter raised in Issue 4.60, 8.20 and 13.30. Mr Kavanagh discovered this had been arranged when the claimant returned after extended sick leave in November 2019 and, in his view, this was an arrangement which was meant to assist with relatively short-term domestic problems. Ms Durand gave evidence that the arrangement had been made with Mr Gleeson who had indicated that people would be flexible about issues with child care for the claimant, although it is not clear who recorded it on the system as EAs. Mr Kavanagh decided, as it was unfair to other staff with childcare needs, and came out of the public purse, that it should be discontinued. He instructed Mr Leader to give the claimant notice on 5 March that the arrangement would end on 16 March.
- 171 In order for the claimant to progress to operational duties she needed to attend a BA course and that was held on 23 March 2020. Her PDR was annotated in March to show she was not on operational duties. She was posted to Hornsey Station a little later. Her partner had also accepted a posting on the Blue Watch at Hornsey. Mr Kavanagh was not aware that he was the claimant’s partner. Arrangements were made so that their shifts did not conflict once Mr Kavanagh was aware. (Issue 4.62, 8.22 and 13.32)
- 172 On 6 May 2020 the claimant received the written warning in relation to the fares issue as mentioned before.
- 173 On 8 May 2020 the claimant did not attend work and informed BC Thompson that her partner, who also worked at Hornsey Station, had taken a covid test having been in contact with someone who had tested positive. Neither the claimant nor her partner was symptomatic. The claimant was instructed to attend work but she sent an email with information from a government

document (page 2384) which she asserted meant she should self isolate. The tribunal does not read the document in that way. It clearly states "*The test is only for people who have symptoms*". The claimant should have attended work, especially as she was instructed to and was aware how short staffed LFB was at this time. (Issue 4.64, 8.24 and 13.34). The tribunal finds that the respondent was entitled to record this as unauthorised absence as that it what it was. The claimant was not entitled to self-isolate. The tribunal heard that the claimant had 10 periods of self isolation since April 2020 to the date of Mr Kavanagh's witness statement which shows that she was not prevented from self-isolating when it was the correct procedure.

174 The disciplinary case about the fares was ongoing because the claimant had appealed on 10 May 2020 (see above at paragraphs 117-119). The claimant sent a complaint to BC Thompson in May 2020 which he forwarded to Ms Gibbs, suggesting it might be referred to the Assistant Director of People's Services, because it referenced officers at Deputy Assistant Commissioner rank.

175 AC Philpott rejected the claimant's grievance appeal regarding the February 2019 Mr Davidson incident by letter of 5 June 2020.

176 On 8 June 2020 Mr Gleeson spoke to the claimant because another employee had complained that the claimant had alleged he had been wearing a white helmet when he was not entitled to. The claimant had taken a photo of the white helmet near her colleague's locker and assumed he was wearing it. Mr Gleeson decided to issue a Letter I (p3856) because it was considered she had made a false accusation. The claimant's reaction to the discussion was recorded:-

"You stated that you refute the allegations made, and that they are spurious and mendacious, and that you challenge the facts put to you".

177 On 19 June 2020 the claimant lodged a harassment complaint against Mr Kavanagh with respect to various issues including her posting, being left isolated, not being allowed to carry over leave and not recognising her self-isolation. These are some of the issues referred to above. The complaint was referred to AC Bell who rejected it in September, some on the basis of being brought outside the policy's timescales and others for reasons which were explained. In summary, he found no evidence that Mr Kavanagh had bullied or harassed the claimant. The claimant pursued that matter by making a grievance within LFB's procedure.

178 The tribunal looked at the employment records for July 2020. At this point, two of the male comparators had progressed to Group Commander (GC) on development, one was a substantive GC and another a Station Commander, whilst the other two were Station Officers. Two females from the same cohort were Station Officers, whilst the other was a Sub O (specialist).

179 The claimant referred matters to ACAS and presented her third claim in these proceedings on 28 July 2020.

180 On 22 March 2021 the claimant attended a grievance meeting for the matter of alleged harassment by Mr Kavanagh. In April 2021 AC Smith rejected that

grievance in a long and detailed letter, although he did recommend action with respect to the unauthorised absence. The claimant's appeal against that grievance outcome was rejected in March 2022.

- 181 The claimant progressed to substantive Sub O in February 2021 and to Station Officer in October 2021. She remains at Finchley Station.

Law and submissions

- 182 We first set out the sections of Equality Act 2010 (EQA) that are relevant for these claims and then explain how they should be applied. They are section 13 for the direct discrimination complaints, section 26 for the harassment complaints and section 27 for the victimisation complaints. They read as follows:-

13 Direct discrimination

(1) 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.

26 Harassment

(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.

(2) -

(3) -

(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.

(5) The relevant protected characteristics are—

- sex;*

27 Victimisation

(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.*
- (3) Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.*
- (4) This section applies only where the person subjected to a detriment is an individual.*
- (5) -*

183 There are also provisions in EQA which are relevant here. They are section 123 and section 136 and read as follows:-

123 Time limits

- (1) Proceedings on a complaint within section 120 may not be brought after the end of—*
 - (a) the period of 3 months starting with the date of the act to which the complaint relates, or*
 - (b) such other period as the employment tribunal thinks just and equitable.*
- (2) -*
- (3) For the purposes of this section—*
 - (a) conduct extending over a period is to be treated as done at the end of the period;*
 - (b) failure to do something is to be treated as occurring when the person in question decided on it.*
- (4) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—*
 - (a) when P does an act inconsistent with doing it, or*
 - (b) if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.*

136 Burden of proof

- (1) This section applies to any proceedings relating to a contravention of this Act.*

(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.

(4) -

(5) -

(6) A reference to the court includes a reference to—

(a) an employment tribunal;

- 184 Section 23 EQA provides that, for the purposes of comparison between a claimant and comparators under section 13 EQA, there must be no material difference. In this case, the claimant has named a significant number of comparators and, on occasion, has suggested a hypothetical comparator. The tribunal should consider whether the comparator is in a similar position to the claimant but without the protected characteristic. The case of Shamoon v Chief Constable of the Royal Ulster Constabulary [2003] ICR 337 HL is authority for the fact that it must be the circumstances that are relevant which must not be materially different. As the claimant's representative reminded us in his closing submissions, Lord Nicholls said in paragraphs 7 and 8:

"7. When the claim is based on direct discrimination or victimisation, in practice tribunals in their decisions normally consider, first, whether the claimant received less favourable treatment than the appropriate comparator (the less favourable treatment issue) and then, secondly, whether the less favourable treatment was on the relevant proscribed ground (the 'reason why' issue). Tribunals proceed to consider the reason why issue only if the less favourable treatment issue is resolved in favour of the claimant. Thus the less favourable treatment issue is treated as a threshold the claimant must cross before the tribunal is called upon to decide why the claimant was afforded the treatment of which she is complaining.

8. No doubt there are cases where it is convenient and helpful to adopt this two step approach to what is essentially a single question: did the claimant, on the proscribed ground, receive less favourable treatment than others? But, especially where the identity of the relevant comparator is a matter of dispute, this sequential analysis may give rise to needless problems. Sometimes the less favourable treatment issue cannot be resolved without, at the same time, deciding the reason why issue. The two issues are intertwined"

- 185 The tribunal must make findings of fact and apply the legal tests to those facts. The tests for direct discrimination were discussed in Igen v Wong [2005] ICR 931 and it is clear that all evidence before the tribunal can be taken into account, not just that put forward by the claimant. The tribunal is mindful that it is unusual for there to be clear, overt evidence of unlawful discrimination and that it should consider matters in accordance with section 136 EQA.

- 186 When making findings of fact, we determine whether those show less favourable treatment and a difference in sex. The test is: are we satisfied, on the balance of probabilities that this respondent treated this claimant less favourably than they treated or would have treated a male employee. We are guided by the decision of Madarassy v Nomura International plc 2007 IRLR 246 reminding us that unfair treatment and a difference in sex, or any other protected characteristic, does not, on its own, necessarily show discriminatory treatment.
- 187 If we are satisfied that the primary facts show a difference in sex and less favourable treatment, we proceed to the second stage, although these stages often occur together. We look to the employer for a credible, non-discriminatory explanation or reason for such less favourable treatment as has been proved. In the absence of such an explanation, proved to the tribunal's satisfaction on the balance of probabilities, the tribunal will conclude that the less favourable treatment occurred because of the claimant's sex.
- 188 The claimant's claims for harassment do not require her to identify a comparator. The steps that are required by section 26 EQA are first, for her to show unwanted conduct that is related to sex and that it had the purpose or effect of violating her dignity or creating the environment as described. In assessing this, the tribunal must apply the test as in section 26 (4) which amounts to a subjective and objective test. The ultimate judgment as to whether conduct amounts to unlawful harassment involves an objective assessment by the tribunal of all the facts. The claimant's subjective perception of the conduct in question must also be considered. Having taken account of whether the claimant perceived her dignity to have been violated the objective question is a question of whether it is reasonable for the conduct to be regarded as violating the claimant's dignity or creating an adverse environment for her.
- 189 The claimant also brings a claim for victimisation under section 27 EQA. The burden of proof provisions apply here too. In this case, the respondent has accepted that the claimant carried out a protected act when she brought a tribunal claim in 2011 and sent the complaints of July 2018 and February 2019. The issues for the tribunal are to consider whether there were other protected acts. Then, we must decide whether the claimant was subjected to the detriments she relies upon and, if she was, whether it was because she had made those protected acts.
- 190 Section 123 EQA (quoted above) provides that a discrimination claim may not be brought after the end of three 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. This provision is very similar to that provided by the previous anti-discrimination legislation. In British Coal Corporation v Keeble 1997 IRLR 336 it was said that the discretion is as wide as that given to the civil courts by section 33 of the Limitation Act 1980. When considering whether it is just and equitable, the tribunal is required to consider the prejudice which each party would suffer as a result of granting or refusing an extension and to have regard to all the other circumstances, in particular the length of and reasons for the delay, the extent to which the cogency of evidence is likely to be affected by delay, the extent to which the party sued has cooperated with any requests for information, the promptness with which the claimant acted once they knew of

the facts giving rise to the cause of action and the steps taken by the claimant to obtain appropriate advice once they knew of the possibility of taking action. However, it is said that there is no legal requirement on a tribunal to go through such a list in every case provided of course that no significant factor has been left out of account by the tribunal or judge in exercising its discretion. Robertson v Bexley Community Centre 2003 IRLR 434 reminds tribunals that the discretion to extend time should be exercised as an exception rather than the rule. In this matter it appears to be that the claimant is arguing that there was conduct extending over a period so as to bring all claims in time.

- 191 The tribunal received lengthy submissions, not least because of the many separate and often linked claims that were brought. There is little dispute on the law and legal tests to be applied and the representatives concentrated on different strands of the evidence. The tribunal noted that the claimant's representative did not categorise the burden of proof as above, saying, on several occasions "*R cannot succeed in its burden of proof*" or "*R cannot meet its burden of proof*". However, the tribunal understood that the claimant's representative did set out the test accurately when he quoted from Madarassy (above). Both representatives referred to the cases mentioned above and some others but there is no need for these to be repeated here.
- 192 We then heard from the representatives in reply. One point which emerged was that the claimant's representative asked us to consider the claimant's evidence as being contained both within her two witness statements (and any cross examination) as well as in the particulars of claim. He referred us to CPR 16 in this regard. The respondent's representative did not agree that that rule applied, reminding the tribunal that there are tribunal rules of procedure and the claimant had been told what her witness statement should contain. Both representatives went into some detail about how the claimant's progression might be compared to her male comparators' progression.

Conclusions

- 193 The tribunal will now set out its conclusions by reference to the list of issues. In many circumstances, this leads to considerable repetition for which we apologise. In many cases, it is clear from our findings of fact what the answer is, but we set it out here for completeness. It has been very difficult to cross reference those matters raised as direct discrimination, harassment and victimisation and we hope errors have been kept to a minimum.
- 194 We have determined that none of the claimant's claims succeed. In all cases, we have found that the burden of proof does not shift to the respondent. That is, the claimant has been unable to show facts from which we could conclude there was less favourable treatment because of sex. Where we have found facts that means we were closer to shifting the burden, we have considered the respondent's explanation in the alternative.
- 195 The question of whether the claims were in time was particularly difficult given the number of people complained about over several years. We have tried to make it clear with each issue whether that issue is in time or not. Where it is not, we have considered whether it amounts to conduct extending over a

period. Although we heard very little about it being just and equitable to extend time, we have considered that briefly under the jurisdiction heading.

- 196 The tribunal noted that the claimant's witness statements, even after a late supplemental statement was allowed, contained little factual detail, even though case management orders had given some guidance. Perhaps because he was aware this might be an issue, the claimant's representative did ask the claimant to confirm that what was in the three sets of particulars of claim was true. This, of course, did not make the case any easier to deal with but the tribunal took the view that we would consider each of the issues, which were taken, word for word, from the particulars of claim, as being part of the claimant's evidence.
- 197 We now give our answer to each individual issue which are set out below as in the agreed combined list of issues.

Jurisdictional Issues

Discrimination time limits

1. Have the Claimant's claims been brought within three months of the acts complained of (S 123 Equality Act 2010) (as extended by Early Conciliation).

2. In respect of any complaints which are out of time, do they form part of a continuing act, taken together with acts which are in time?

3. If there is no continuing act, is it just and equitable for the tribunal to extend time in relation to earlier alleged acts of discrimination, harassment, or victimisation.

- 198 Not all the claimant's claims have been brought within the three-month time limit and the tribunal does not find that they are part of conduct extending over a period so as to bring them in time. Under each of the issues below, the tribunal states whether that claim is in time and/or part of conduct extending over a period. We cannot find that it would just and equitable to extend time as the claimant provided no evidence on which we could base such a decision. We have stated where the claim is in time.

Direct Sex discrimination

- 4. Did the Respondent subject the Claimant to less favourable treatment by -*

First Claim

4.1 Failing to provide the Claimant with a mentor over the period April 2015 to May 2018 (see also issues 8.3 and 13.2)

- 199 The claimant was not provided with a mentor during this time. The evidence shows that this was for several reasons, including the fact that the claimant did not actively engage in the process. There is no policy with respect to mentors and, whilst the delay was regrettable, this is not a fact from which we could conclude that there was discrimination because of the claimant's sex and, even if there was, the respondent's

explanation shows there was no such discrimination. This claim would appear to be in time.

4.2 Placing the Claimant on light duties for an inordinate period of time in April 2015 whilst she was awaiting work wear.

200 This was not pursued in written submissions

4.3 Warning Senior Officers and various personnel about the Claimant's arrival at Finchley fire station in 2015 following her previous suspension and legal wranglings with the Respondent. Phil Towers advised along with Martin Devine that Steve Leader would go into the CFS room and divulge information about what he had heard about the Claimant's character and her background when the Claimant started at Finchley in July 2015 – Steve Leader said that the Claimant was a troublemaker; that the Claimant had a previous court case and so they should be cautious and guarded in her presence; and that he, (Steve Leader) had no choice about the Claimant working at Finchley as the decision had been made above his head.

201 The tribunal is not satisfied that this claim is made out on the evidence before us. It is, in any event, out of time, the allegation relating to the period the claimant returned to work in 2015 and there is no conduct extending over a period.

4.4 Spreading damaging rumours about the Claimant - WM Colin Digby made comments and continues to make comments about the Claimant's work ethic – to FF James Gilham and other LFB personnel during a recruitment fair at Havering college towards the end of 2017 that the Claimant was useless at her job, and that she was a trouble maker. WM Digby stated to WM Mehmet Asir whilst on a course that they attended in 2017 that the Claimant was useless at her job and that he felt sorry for WM Asir because he had to work with the Claimant.

202 The claimant has not shown that damaging rumours were spread. Mr Digby did make negative comments to Mr Asir but these are not facts from which we could conclude that there was discrimination because of sex. They relate to Mr Digby's personal impression of the claimant, having worked with her some years before. Even if the burden of proof had shifted, the tribunal is satisfied there was no discrimination because of sex. In any event, this claim is out of time and is not part of any conduct extending over a period.

4.5 Not providing the Claimant with a compilation of revision notes to aid her return to work (July 2015)

203 Not pursued in written submissions.

4.6 Steve Leader telling the Claimant in 2015 that she would have to undertake the London Incident Management (LIM) training and the Supervisory Managers Incident Command Refresher (SMICR) training. (Comparator – FF Maurice Ellis was told that he would only need to undertake the SMICR and not the LIM.)

- 204 The tribunal heard no evidence about FF Ellis. There are no facts from which the tribunal could conclude that there was less favourable treatment because of sex. This issue is out of time and there is no conduct extending over a period.

4.7 Failing to provide suitable separate facilities for female officers until 2017.

- 205 Withdrawn at outset of hearing

4.8 Keeping the Claimant on light duties for approx. 6 months in 2015 before she was placed on the run in September 2015.

- 206 Not pursued in written submissions

4.9 Delays in opening the Claimant's Electronic Personal Development Record in 2016.

- 207 The tribunal does not accept there was a delay as the claimant only returned to operational duties in January 2016 and the PDR started in February 2016. There are no facts from which we could conclude there was less favourable treatment because of sex. It is, in any event, considerably out of time and there is no conduct extending over a period.

4.10 R Bond told the Claimant in February 2016 that she would not have to repeat training such as the CM Training courses, but he then reneged on that position and insisting that the Claimant repeat the CM Training courses.

- 208 Mr Bond accepted that he said the claimant would not have to repeat courses she had already done but it was not his decision which courses she had to go on. The meeting was in 2015 (not 2016) and Mr Bond did not insist on any courses. There are no facts from which the tribunal could conclude that there was less favourable treatment because of sex. The claim is out of time and there is no conduct extending over a period.

4.11 SM Madeley said in December 2017 that the SM Job is 'one for the boys'

4.12 SM Madeley overlooked the Claimant for deputisation in January 2018, despite her qualifications and fast track status.

4.13 From September 2015 until his retirement date, SM Madeley made reference to the Claimant's reputation following her suspension and legal action in 2011; SM Madeley said that everywhere he went he was told, oh you've got that Rachel Spread on station, I bet she's causing you problems; that the Claimant was referred to as a 'nightmare', 'trouble', 'not to be trusted', 'don't upset her whatever you do' SM Madeley said this happened continually throughout the entire time period that the Claimant was at Finchley until his departure from the LFB

- 209 These three allegations can be taken together. They are also raised under issues 8.1, 8.10 and 13.9. The tribunal did not hear evidence from Mr Madeley but neither did the claimant provide any evidence, apart from these mere assertions. The claimant has not proved that these things occurred. In any event, they are out of time and there is no conduct extending over a period.

4.14 WM Asir telling WM Smith before he had even met the Claimant that the

Claimant was “a big mouth bird who is nothing but trouble” in or around Feb 2016, and that he did not want the Claimant deputising for him in his absence. WM Asir also stated that the Claimant was a big mouth, a troublemaker, and a crap officer. He said that he can’t do anything with the Claimant and that she would not do anything she was told to do

- 210 The tribunal has found that this did not occur. There are no facts from which we could conclude that there was less favourable treatment because of sex. In any event, it is out of time and there is no conduct extending over a period.

4.15 No personnel wanting to work with the Claimant because of her reputation

- 211 There was no evidence for this allegation which is vague and without any dates. It is not proven and there are no facts from which we could conclude that there was less favourable treatment because of sex. There are no dates so we cannot say the claim is in time.

4.16 By spreading rumours that the Claimant had been sacked. WM Asir and SM Madeley talked about the Claimant having been sacked. A number of staff informed the Claimant’s partner when he was standing by at Stoke Newington fire station that the Claimant had been sacked. The Claimant alleges that Kam Hussain and Jason Mitchell told her partner that they had heard rumours that the Claimant had been sacked, even though they did not work in the same command as the Claimant.

- 212 The tribunal has found that this did not occur. The claimant had not been sacked and Mr Asir did not think she had. There are no facts from which the tribunal could conclude that there was less favourable treatment because of sex. As there is no date attached to the allegation, the tribunal cannot be sure it is in time.

4.17 There being an institutionalised sexist attitude at Finchley station and among the people who were directly involved with the Claimant’s career progression.

- 213 Withdrawn at start of the hearing

4.18 GM Worsam telling the Claimant in front of WM Asir in August 2016 that he couldn’t think of anyone who would be the Claimant’s mentor.

- 214 It is agreed that GM Worsam said he couldn’t think of anyone to mentor the claimant “off the top of his head”. This is not a fact from which the tribunal could conclude there was less favourable treatment because of sex and it is out of time. Even if it was part of conduct extending over a period because of GM Worsam’s continued involvement, it cannot succeed as the claimant has not shown any less favourable treatment.

4.19 Andrew Cross recording the Claimant’s sickness in such a way that she was ineligible to apply for pre-arranged over time. The Claimant alleges that if her absence had been recorded as “maternity related” she would still have been eligible to apply for pre-arranged over time in February 2016.

4.20 WM Asir offering the Claimant an WM(A) position at Southall and denying her a posting that was close to where she lived (February 2016).

- 215 Withdrawn at the start of the hearing

4.21 *SM Madeley sending the Claimant on a WM booster course on her off-duty days, when the Respondent knew about the Claimant's complex childcare arrangements due to the Claimant having pre-school triplets and a teenager (May 2017)*

- 216 The tribunal has heard no evidence about SM Madeley's involvement in this. As the facts make clear, the claimant needed to go on a Booster course to be operational again. There was no evidence that Mr Worsam or anyone else considered any issue about the claimant's off-duty days and she herself asked for any cancellation. There are no facts from which we could conclude there was less favourable treatment because of sex and the claim is out of time.

4.22 *SM Madeley and GM Worsam offering the Claimant WM(A) postings and telling her that the WM(A) posting was the next logical move. The Claimant asserts that the WM(B) posting should have been the next logical move (March 2017).*

- 217 The claimant was told that WM(A) postings were the next step but these are not facts from which the tribunal concludes there was less favourable treatment because of sex. The evidence before us was that, in most cases, people on GES (and anyone progressing through the ranks) progressed first to WM(A). There were occasions, where individual officers, both men and women, progressed to WM (B). Even if the burden of proof had shifted to the respondent, the tribunal is satisfied that there were non discriminatory reasons for those postings. In any event, the claim is out of time as it relates to March 2017. It is arguably conduct extending over a period as that decision, that the claimant would progress to WM (A) continued until her posting in May 2018. However, the claim does not succeed.

4.23 *Issuing PDPs to the Claimant over the period 2015 to 2018 as a form of punishment rather than development, because of her reputation. The Claimant relies on the following PDPs*

<i>Date PDP issued</i>	<i>Title of PDP</i>	<i>Date PDP signed off</i>
12/04/2016	safety officer development/ radio procedure	12/05/2016
04/11/2016	vehicle manoeuvring	31/12/2016
11/12/2017	466 development	12/01/2018
11/12/2017	320 appearance on duty	12/01/2018

i. The Claimant alleges that the PDP dated 12 April 2016 was issued by WM Asir at the direction of SM Madeley. The Claimant alleges that there was no basis for the issue of the PDP, and also that it was not in line with the Respondent's guidelines, as it was not properly investigated. The Claimant stated that she contacted both WM Asir and SM Madeley and objected to the PDP, but she was told that it was easier just to have it on her record and that it would be signed off as complete.

ii. The Claimant alleges that the PDP dated 4 November 2016 was issued incorrectly as the events had not been substantiated. The Claimant alleges that the PDP was issued again with the promise it would be signed off as complete in a month.

iii. The Claimant alleges that the PDPs dated 11 December 2017 were issued together by WM Asir before he left the watch. With regard to the PDP entitled "466 Development", the Claimant alleges that WM Asir sent her for training at Park Royal, after she had issued a grievance against the trainers at this location, and so the PDP was issued unfairly. With regard to the PDP entitled "320 appearance on duty", The Claimant alleges that the PDP should not have been used to address a conduct/performance issue. The Claimant also alleges that WM Asir waited almost two years to issue the PDP entitled "320 appearance on duty".

iv. The Claimant alleges that the PDP's were not issued in accordance with the Respondent's guidelines. The Claimant also alleges that the PDPs were only issued for a month and then signed off as complete. The Claimant alleges that the PDPs were used against her in a punitive manner rather than as a development tool.

v. The Claimant alleges that the PDPs were issued maliciously. She also claims that WM Chris Burrows told her that WM Asir and SM Madely wanted her to hang herself.

- 218 The PDPs referred to above were issued to the claimant. The claimant has not shown that these are facts from which we could conclude there was less favourable treatment because of sex. On the facts, the incidents occurred, there were good reasons for PDPs to be issued as a development tool and they were not issued maliciously. The claimant's argument that, for some aspects the disciplinary procedure should have been used, makes no sense. Even if the burden of proof had shifted to the respondent, the tribunal would find that there were non-discriminatory reasons for the PDPs. Only those issued in late 2017 could be in time and there is no conduct extending over a period.

4.24 Personnel referring to the Claimant and her reputation in a detrimental manner over the period 2015 to 2018:

i. SM Madeley, throughout his duration as the Claimant's SM at Finchley;

ii. WM WM Asir, throughout his entire time at Finchley, continually gave the Claimant examples of people like WM/FF Cam who had referred to her reputation;

iii. SM Digby told the Claimant that everywhere he went, he was always asked about the Claimant - Crews asked him about her on incidents and they were always disparaging of her. SM Digby repeated all the remarks the Crews had made of her character, including speculation regarding her previous tribunal claim and the fact that they all felt that she had been dismissed;

iv. WM Smith told the Claimant that he had heard defamatory remarks about her and he repeated what he had heard, even stating that the watch she was on was a poisoned chalice and that it was regarded as such by people because she was on the watch;

v. WM Burrows had told the Claimant that WM Asir continually referred to the Claimant in a derogatory manner. This happened throughout her entire duration at Finchley.

- 219 This appears to present several allegations under one heading. As with issues 4.11-4.13, the tribunal has not heard sufficient evidence to substantiate these claims. The claimant did not deal with them in her witness evidence and there are few dates or further details. The assertions are based on what the claimant alleges she was told by others. The tribunal is not satisfied that these matters occurred in this way although we accept that gossip is often an integral part of any workplace and some officers might have passed on remarks they either heard or had been heard by others. This cannot form the basis for a finding of sex discrimination. There are no facts from which we could conclude there was less favourable treatment because of sex. It is not possible to decide whether the claims are in or out of time because of the lack of dates.

4.25 WM Huffington telling the Claimant in April 2015 that he knew about her reputation and telling the Claimant in August 2015 that he was not thrilled about her being posted to the watch, given her history.

- 220 Withdrawn at the start of the hearing

4.26 Failing to provide a consistent manager who would be responsible for managing the Claimant's progression. The Claimant's progression was managed by GM Worsam who retired and was replaced by Matt Herrington, who lasted in post for a fortnight before the Claimant advised that the role within the GES has been deleted; ultimately leaving no operational line manager to deal with her progression (March 2018)

- 221 This allegation is not made out on the facts. The claimant did have a consistent manager, having understated the time Mr Herrington was her manager. There were no gaps. There are no facts from which we could conclude that there was less favourable treatment because of sex. The claim might be in time but cannot succeed on the facts.

4.27 The Claimant is unlikely to progress due to the introduction by the Respondent of a two tier system with regard to the WM post. The Claimant alleges that the brigade deliberately withheld her development being only too aware of the forthcoming implementation of R2R. The Claimant alleges that her development was hindered by deliberate obstacles, unfair practices and nepotism, and that she has been placed at risk of demotion. The Claimant alleges that she sat the CM course and passed it, whereas IE SC John Carpenter (who was not on the fast track scheme), failed the CM course, but he is now three ranks higher than the Claimant.

- 222 There are no facts from which we could conclude that there was less favourable treatment because of sex when R2R was introduced. The claimant gave no evidence of the obstacles, unfair practices or nepotism referred to, nor did we hear about Mr Carpenter. The claimant's concern about her progression as compared to others is considered below.

4.28 The Claimant asserts that the following comparators started on the GES at the same time as the Claimant, but they have progressed to more senior positions than the Claimant; (Comparators – WM (B) Rob Pratt, WM (B) Gavin Jones, SM Richard Abbott, SM Charles Hanks, GM Paul Fitzgerald and WM (B) David Murphy).

- 223 The wording of this issue does not appear to reflect the information in the employee

records of the time of presentation of the first claim (2 April 2018). On those documents, which it is agreed are not always completely accurate, Abbott, Hanks and Fitzgerald are shown as Station Managers (SM), Jones and Pratt as WM (B) and Murphy as WM (A). This does mean that they were in more senior positions than the claimant. The tribunal does not find that is sufficient to show less favourable treatment because of sex for several reasons. First, two females in the cohort also progressed to WM (B). Secondly, there were other reasons which explain the claimant's lack of progression including the fact that she had been absent from work for over 3 years between 2011 and 2015. Others on her cohort had already progressed before or during that absence. On her return, she had particular needs which would limit her postings. These included her requirement for a station in NW *and* within commuting distance of her home *and* to avoid the same watch as her partner. It is also clear from the evidence that the claimant was not helping with her own progression by completing the necessary PDLs. Even if these did amount to facts from which we could conclude that there was sex discrimination, the respondent has satisfied the tribunal that the myriad reasons for firefighters to progress are not tainted by sex discrimination. The claim would appear to be in time, not least because it would amount to conduct extending over a period, but it does not succeed.

Second Claim

4.29 From May to November 2018, Paul Cartwright, Keeley Foster, James Ryan and Robbie Robertson failed to accept the Claimant's recognised prior learning [RPL] gained whilst she was at Finchley (Comparators - Glen Radley, Mehmet Asir, Andy Bathie and Matt Richards)

- 224 The claimant has not shown any facts here from which the tribunal could conclude that there was less favourable treatment because of sex. There is scant evidence about the comparators. The policy on which RPLs would be appropriate was explained to her correctly in line with policy and, in any event, the claimant entered very few. Even if the burden of proof had shifted to the respondent, the tribunal is satisfied there was no discrimination in this policy. We had very little detail about the named comparators. In any event, this claim is out of time. The tribunal is not satisfied the claimant could show there was conduct extending over a period as her this claim form was not presented until May 2019 and the claimant was absent on sick leave from the end of February 2019.

4.30 Failure by SM Davidson to send a "welcome to the Borough" email to the Claimant in May 2018. He sent one to Mr Calcutt. Robbie Robertson accused the Claimant of leaving the station unsecured, even though he was there. He also informed the Claimant contrary to LFB Policy that SPL leave was unpaid.

- 225 The first matter here is not made out on the facts. The claimant was sent a welcome to the borough email. Mr Robertson did speak to the claimant about the station being unsecured which was entirely reasonable. He accepted that he made an error in saying SPL was unpaid. The tribunal does not find that these are facts from which we could conclude that there was less favourable treatment because of sex. Even if there were such facts, the tribunal is satisfied by the respondent's explanation for what occurred and do not find there was any sex discrimination. In any event, that claim is out of time and the tribunal does not accept there was conduct extending over a period.

4.31 Robbie Robertson/Mark Davidson made a spurious allegation to the effect that complaints had been received that the Claimant had been aggressive and

abrupt during a telephone call to employees from another department. Robbie Robertson issued the Claimant with a Letter 1 in relation to the allegation which the Claimant maintains is unfounded.

- 226 There are no facts from which the tribunal could conclude that there was less favourable treatment because of sex. The allegation was not spurious, although the tribunal accepts that a better description of the claimant's attitude would have been to state it was "abrupt" rather than "aggressive". The allegation was not unfounded and, given the claimant's response to the discussion, the issuing of a Letter 1 was a reasonable step. Even if the burden of proof had shifted to the respondent, the tribunal accepts there was no discrimination. In any event, the claim is out of time and there is no conduct extending over a period such as to bring the claim in time.

4.32 In the period up to December 2018, the Claimant was only been offered WM(A) posts, whereas her male comparators have been offered WM(B) and Command Unit (CU) roles.

- 227 It is correct that the claimant was only offered WM(A) roles but she has not shown that all her male comparators were offered WM (B) roles. Some were and some were not. See answer to this above at 4.28

4.33 Over the period August 2018 until the Claimant went sick in February 2019, James Ryan required her to repeat work she had done. James Ryan also failed to sign the Claimant off as competent in 2018 (Comparators - Alex Cardy, Lee Harris, Richard Calcutt)

- 228 The tribunal does not accept that the claimant was required to repeat work she had done. The claimant could not be signed off as competent until she had completed all parts of the role map. We do not know what happened about those named comparators. There are no facts from which we could conclude there was less favourable treatment because of sex. Even if there were, we are satisfied by the respondent's explanation that there were non-discriminatory reasons for the claimant's slow progression. This claim would appear to be out of time in any event, but, if we are wrong about that, the claim does not succeed on the facts.

4.34 James Ryan failed to give sufficient notification to the Claimant of a formal assessment being conducted and the assessment was not diarised (Comparator - Richard Calcutt)

- 229 The tribunal is not entirely sure whether this allegation relates to the PDR meeting in October 2018 or the suggested health and safety walkaround in December 2018. If it is the PDR meeting, the claimant did have sufficient notification. If it is the health and safety walkaround, the claimant rejected the suggestion and the tribunal accepts that Mr Ryan had made the same suggestion to Mr Calcutt. There are no facts from which the tribunal could conclude that there was less favourable treatment because of sex. In any event, the claim is out of time and there is no conduct extending over a period to bring the claim in time.

4.35 James Ryan failed to follow the PRO procedure in relation to the basement incident in November 2018. He also undermined the Claimant's position with regard to the incident – (Comparator - hypothetical comparator)

- 230 This allegation is not made out on the facts. Mr Ryan did not fail to follow the PRO procedure nor did he undermine the claimant's position. An investigation under the respondent's procedures was necessary and was delayed for several reasons including the claimant's absence on sick leave. There are no facts from which we could conclude that there was less favourable treatment because of sex. It is arguable the claim would be in time as it extended into 2020 but the claim cannot succeed.

4.36 In December 2018, SC Ryan accused the Claimant of falsifying her fares claim. SC Ryan scrutinised the Claimant's fares when he had not scrutinised the fares of other officers. SC Ryan ordered the Claimant to repay the fares, but the claims of the Claimant's male counterparts had been paid out to them. The Claimant asserts that it was common practice for officers to use petty cash for fares, but SC Ryan would not permit the Claimant to do this, whereas the Claimant's male counterparts were allowed to use petty cash for fares. (Comparator - Alex Cardy)

- 231 This claim is not made out on the facts as found by the tribunal. Mr Ryan asked for supporting documents. The claimant's failure to provide them and asking another officer to pay the expenses led to the accusation Mr Ryan made. There is no evidence that male officers were treated differently with respect to that part of what occurred. The evidence was that some officers, including male officers named were initially asked to re-pay some fares they had claimed from petty cash but were then told they did not need to repay them. The claimant has not shown facts from which we could conclude there was less favourable treatment of her. The claim would appear to be in time as it led to disciplinary proceedings that took place over some time.

4.37 SC Ryan issued the Claimant with a warning for wearing a T shirt on duty. (Comparators - WM Lee Harris and Alex Cardy)

- 232 The claimant was issued with a warning for wearing a T shirt on duty. Wearing a T shirt was against the rules as set out above. The tribunal heard no evidence about Mr Harris or Mr Cardy and there are no facts from which we could conclude there was any less favourable treatment because of sex. The claim is, in any event, out of time and there is no conduct extending over a period.

4.38 M Davidson and J Ryan failed to consult the Claimant in relation to FF Shaw when the Claimant was her line manager in December 2018. (Comparator - WM Lee Harris)

- 233 These incidents did occur but they are not facts from which the tribunal could conclude there was less favourable treatment because of sex. Mr Harris was spoken to because he was on duty. There can be no criticism of a more senior manager speaking to an officer, especially as the claimant was kept informed. In any event, the claim is out of time and there is no conduct extending over a period.

4.39 The tone and content of emails that SC Ryan sent to the Claimant during the period August to December 2018 were less friendly than emails he sent to the Claimant's male counterparts – (example email from SC Ryan to WM Harris). Toby Kempton would not allow the Claimant to produce evidence about SC Ryan's emails during the interview on 5 April 2019.

- 234 Withdrawn at the start of the hearing

4.40 The Claimant's request for a transfer was denied in December 2018 on the grounds that she could not be transferred whilst she was on development. (Comparators – Russ Ward, Ibrahim Ntege)

- 235 The claimant was informed that was the reason for her not to be transferred. The policy was that it could only happen in exceptional circumstances. The claimant has not shown facts from which we could conclude there was less favourable treatment because of sex but, if the burden of proof was to shift, the tribunal is satisfied with the respondent's explanation. In any event, the claim is out of time and there is no conduct extending over a period as the claimant was on extended sick leave from February 2019.

4.41 In December 2018, SM Davidson and SC Ryan refused the Claimant's request to work on the Command Unit (CU).

- 236 The tribunal has heard no evidence about Mr Davidson and Mr Ryan refusing any request for the claimant to work on the CU. There was no evidence that the claimant made such a request and there are no facts from which we could conclude there was less favourable treatment because of sex. The claim must be out of time and, again, there is no conduct extending over a period as the claimant was on extended sick leave from February 2019.

4.42 On 27 February 2019, SM Davidson behaved in a threatening manner towards the Claimant and used aggressive language, which the Claimant alleges forced her to commence a period of sickness absence. The Claimant relies on a hypothetical comparator.

- 237 The tribunal's findings of fact on this incident do not support this claim. We have not found that SM Davidson behaved in a threatening manner or used aggressive language. There are no facts from which we could conclude there was less favourable treatment because of sex. We find that Mr Davidson would have treated a male officer in the same way, if he had concerns about his attitude. The claim would appear to be in time.

Third Claim

4.43 During the Claimant's sickness absence from February to November 2019, Peter Wolfenden, (the Claimant's contact manager), suggested to Andy Hearn and Steve Leader that the Claimant work at Mill Hill or Hendon Fire station. This suggestion was rejected, which resulted in the Claimant's sickness absence being extended. The Claimant also asserts that she suffered a demotion as a result of the Role to Rank (R2R) process being implemented whilst she was on sick leave – (Comparators – Jem Cam, Ed Thurston, C Cartwright, Robert Meech, Dave Murphy and Paul Fitzgerald)

- 238 The tribunal accepts that this suggestion was made to Mr Leader but not to DAC Hearn. It was rejected because there were no vacancies and the tribunal does not accept there are facts from which we could conclude that there was less favourable treatment because of sex. The claimant was unfit for duty at this time and the hints at management difficulties in OH reports is insufficient to find that the claimant was well enough to return under different management. Even if the burden of proof shifted to the respondent, the tribunal is satisfied that the reason for rejecting the suggestion was non-discriminatory. In any event, the claim is out of time and there is no conduct

extending over a period, the claim form not being presented until July 2020.

4.44 The Respondent rejected the recommendation of Peter Wolfenden that the Claimant's sickness absence in February until November 2019 be classified as "Due to Service". The Respondent did not follow process for dealing with "Due to Service" applications in that the requisite form was not signed – (Comparator – Kamran Hussain and Christopher Reid)

- 239 The tribunal has found that Mr Wolfenden's completion of the form was a recommendation for the sickness to be classified as "due to service". It was rejected. This is not a fact from which we could conclude there was discrimination because of sex because it was connected to the investigation into 27 February incident. In any event, the claim is out of time and there was no conduct extending over a period.

4.45 In April 2019, the Claimant attended a grievance hearing which was conducted by Toby Kempton. During the hearing, Toby Kempton was aggressive and obstructive towards the Claimant – specifically he refused to allow the Claimant to produce evidence, he continually interrupted the Claimant, he accused the Claimant of being rude, and he refused to listen to a voice recording the Claimant had made of a meeting between the Claimant and James Ryan. The Respondent also refused to hear the Claimant's grievance in relation the refund of her fares and Toby Kempton refused to discuss this issue during the hearing in April 2019.

- 240 The tribunal has found that this allegation is not made out. Mr Kempton did not behave in the way the claimant described. The decisions taken with respect to her other concerns were reasonable. There are no facts from which we could conclude there was less favourable treatment because of sex. In any event, the claim is out of time and there is no conduct extending over a period.

4.46 The Respondent has not heard the Claimant's grievance about her referral to stage 1 of the Respondent's disciplinary procedure, almost two years after the fares issue arose. The manager appointed to hear the appeal, Kevin McKenzie, informed the Claimant that the appeal would take the form of a review rather than a full appeal hearing, which the Claimant asserts is in breach of the grievance procedure, the ACAS guidelines and the grey book (Comparator – Alex Cardy and Glen Radley)

- 241 The tribunal has found that Mr McKenzie was entitled to hear the appeal as a review and it is line with the policy and ACAS guidance. There are no facts from which we could conclude there was less favourable treatment because of sex and no evidence about the named comparators. This claim appears to be in time but cannot succeed on the facts.

4.47 The Respondent contrived and concocted spurious claims against the Claimant – in particular, Paul Gleeson issued a Letter 1 to the Claimant for making incorrect statements. This issue arose out of the Claimant's allegation about sub officers at Willesden being in possession of white Lids (Helmets). The Letter 1 was issued despite the Claimant having a photograph of Richard Calcutt's white helmet.

- 242 The tribunal does not accept that the "claims against the claimant" were spurious. The Letter 1 in June 2020 was issued because of the claimant's behaviour. There are no facts from which we could conclude that there was less favourable treatment because of sex and, even if there were, the

respondent's explanation shows no such discrimination. The claim is in time but does not succeed.

4.48 In September 2019, the Claimant attended a grievance hearing with Alan Taylor. During the hearing, the HR adviser, Josie Durand suggested West Hampstead as a location for the Claimant's return to work. The Claimant asserts that this was an attempt by the Respondent to force the Claimant out of the organisation by placing her in a location that would cause her stress and anxiety, on the basis that the Station Manager at West Hampstead was a bully (Comparator – Brian Flanagan).

243 Withdrawn at the start of the hearing

4.49 Catherine Gibbs advised a senior manager (BC Ian Thompson) against his own judgement to reject the Claimant's grievances that were lodged upon her return to work in May 2020 onwards – specifically online grievance ref 124, 129 and 134 as well as the HCPs sent to the Respondent in May 2020. (Comparator – Paul Fitzgerald, Glen Radley).

244 The tribunal does not find that Ms Gibbs advised Mr Thompson to reject any grievances against his own judgment. Mr Thompson had formed a view about the May 20 complaint which he communicated to Ms Gibbs. There are no facts from which we could conclude that there was less favourable treatment because of sex and we heard no evidence about the named comparators. It would appear that this claim, where it relates to May 2020 could be in time.

4.50 Sometime in April 2020, the Claimant booked off duty after a colleague committed suicide. After the Claimant had left, Keith Williams asked Mark McManus why the Claimant had not carried out training, and he then proceeded to complain about the Claimant – (Comparator – Brian Flanagan)

245 Withdrawn at the start of the hearing

4.51 It was agreed that the Claimant would return to work to Finchley station doing project work, however when she arrived at Finchley, the project work was not forthcoming – (Comparator – Paul Gleeson)

246 The tribunal accepts that the project work was not available because of the lack of a car. These are not facts from which we could conclude there was less favourable treatment because of sex. We do not understand the reference to Mr Gleeson as a comparator. The claim is, in any event, out of time and there is no conduct extending over a period.

4.52 The Respondent carried out a stage 1 capability hearing with the Claimant, even though Peter Wolfenden disagreed that a capability hearing was appropriate. Peter Wolfenden told the Claimant that David Amis tried to pressure him to conduct the capability hearing. Peter Wolfenden also told the Claimant that the Respondent was trying to get rid of her.

247 The respondent did carry out a Stage 1 capability hearing in line with its policy. The tribunal does not accept that Mr Wolfenden disagreed it was appropriate, except for his belief that the claimant was about to return to work and for other reasons. There are no facts from which we could conclude that there was less

favourable treatment because of sex as there was no detriment in holding such a hearing. The claim is, in any event, out of time.

4.53 The Claimant's attempt to book her scale A leave was met with hostility, confrontation and unwillingness from Steve Smith, Chloe Van Dop – both were rude and obstreperous on the phone. They failed to assist the Claimant and asked her why she had contacted them directly (Comparator – hypothetical comparator)

248 Withdrawn at the start of the hearing

4.54 The Claimant's performance and development review (PDR) should have been done in January 2020, but was not done until July 2020, causing her a financial detriment. The Claimant also asserts that her career progression was also affected because she was required to repeat elements on sub officer training. The Claimant asserts that DAC Kavanagh told Paul Gleeson that he did not need to review her PDR.

249 As the claimant was not on operational duties in January 2020 as she had returned from extended sick leave, progress could not be made on the PDR. It was annotated in March 2020 that was the position. There was no evidence of Mr Kavanagh giving any such instruction to Mr Gleeson. There are no facts from which we could conclude that there was less favourable treatment because of sex. As it appears to relate to July 2020, that claim would appear to be in time.

4.55 DAC Paul Kavanagh refused the Claimant's request to carry over leave from 2019

250 DAC Kavanagh did not refuse the claimant's request for leave. There are no facts from which we could conclude there was less favourable treatment because of sex. The claim is out of time.

4.56 Whilst the Claimant was on light duties at Finchley station, she was ostracized and left in a remote part of the station. She was not given any meaningful work to do and had very little contact with her manager – (Comparators – Kam Hussein and Jason Mitchell)

251 The claimant was not ostracised as described by her. Mr Gleeson made arrangements for her to be able to progress on her PDR. The claim is not made out on the facts which do not show any less favourable treatment because of sex. The tribunal heard nothing about the named comparators. In any event, the claim is out of time.

4.57 The Claimant's base posting remained at Willesden blue watch, despite the recommendation of her GP and HML that she should return to work under a different management chain, and despite her grievance against Mark Davidson in which she alleged that he had verbally assaulted and threatened her. The Claimant had to wait a further 6 months before she was allowed to go back onto operational duties – (Comparator – Russ Nevill)

252 The claimant's base posting did remain as Willesden whilst she was on sick leave. Until she was fit enough to return, there was no need to change that. Although the OH report referred to problems with management, it did not state

directly that she could return under different management. The tribunal saw no GP reports. These are not facts from which the tribunal could conclude there was less favourable treatment because of sex and we have no information about the named comparator. The claim about Willesden remaining as her base posting is out of time. The delay before she returned to operational duties is probably in time but cannot succeed.

4.58 The Claimant was not given a prescriptive TNA, she had to arrange her own training and was largely ignored (Comparator – Kamran Hussein)

- 253 The facts as found by the tribunal do not support this allegation. The evidence shows that Mr Gleeson did prepare a TNA and arranged her training. There are no facts from which we could conclude there was less favourable treatment because of sex and we heard nothing about the named comparator. The claim appears to be out of time as it relates to her return in November 2019. If it is in time, it does not succeed.

4.59 James Ryan had failed to follow the policy/protocol with regard to the return of the Claimant's PPE kit/fire gear in order to make things as awkward as possible for the Claimant. The Claimant's fire gear and white helmet was then returned to Bristol so as to cause the Claimant extra inconvenience. When the Claimant went to retrieve her fire gear, she discovered that her radio, torch, centre punch, seatbelt cutter, lift keys, haz chem guide, personal line and other items had been stolen. The Claimant reported the missing items to Paul Gleeson sometime in February 2020, but the items were not replaced until June 2020. Prior to this, the Claimant had to work at operational incidents in dangerous situations without all of her PPE (Comparator – Julian Gifford)

- 254 The facts do not support this allegation. Any failure to follow protocol was an oversight and there was no obvious detriment. Mr Ryan followed up the issues with the claimant's uniform as did Mr Gleeson. The tribunal does not accept there are any facts from which we could conclude that there was less favourable treatment because of sex and heard nothing about the named comparator. Any action by Mr Ryan is out of time but the concern about items not being replaced until June 2020 is in time. The claimant cannot show it is sex discrimination.

4.60 DAC Kavanagh insisted that the Claimant be kept on a nine-day fortnight instead of permitting her to follow the watch when she was doing light duties, when he knew that this would disrupt her child care arrangements. The Claimant spoke to HR who agreed to grant her excused absence (EA) for the days that the Claimant's partner was on duty, but DAC Kavanagh told BC Steve Leader to delete the EAs that had been entered onto StARS. DAC Kavanagh also reneged on the arrangements agreed for the Claimant's return to work – (Comparator – Paul Gleeson)

- 255 This allegation appears to be more concerned with the removal of excused attendance (EA) days in March 2020. The tribunal does not find that there are facts from which we could conclude there was less favourable treatment because of sex but, if the burden shifts to the respondent, we are satisfied that the reasons to change the arrangement were non-discriminatory. The claim appears to be out of time but, if we are wrong about that because of when the change was put into effect, it does not succeed.

4.61 DAC Kavanagh insisted in January 2020 that the Claimant attend a PRC in relation to an incident that took place in October 2018, and that he did this in order to cause her anxiety. The PRC was contrary to Policy 421, which states that a PRC must be conducted in a timely manner and that if the Incident Commander (IC) is to be unavailable for a lengthy period, a written submission could be made. The PRC was conducted by Andy Kane who issued the Claimant with a PDP in an attempt to make it look as if the Claimant performed badly on the fireground (Comparator – hypothetical comparator)

- 256 The claimant was asked to attend the PRC in January 2020 as were others involved in the Harlesden incident in October 2018. The reason for the delay was the claimant's absence and holding the PRC was in accordance with the policy and not to cause her anxiety. There are no facts from which we could conclude that there was less favourable treatment because of sex. In any event, the claim is out of time and there is no conduct extending over a period.

4.62 DAC Kavanagh attempted to place the Claimant on a watch that conflicted with her partner's shift patterns which made childcare impossible. After the Claimant filed a grievance, Paul Gleeson informed the Claimant that she would be offered green watch at Hornsey, but this was further away from the Claimant's home, it was not on her transfer list, and she had previously encountered bullying in the Borough of Haringey. The Claimant was told that the posting was temporary and that she would be allocated a permanent post when her appeal hearing was concluded. The Claimant was subsequently told that Hornsey would be her base posting.

- 257 The facts do not support this allegation as Mr Kavanagh was not aware that Mr Radley was the claimant's partner. When he found that out, other arrangements were made for the claimant's watch. There are no facts from which we could conclude there was less favourable treatment because of sex. It is likely this claim is in time.

4.63 Joseph Kenny withheld the Claimant's helmet and invented further regulations to justify the decision to not provide the Claimant with a white helmet. The Claimant believes that she was entitled to retain her white helmet, because she was legacy protected.

- 258 The facts do not support this allegation as the claimant was not entitled to a white helmet. The evidence is that she was not legacy protected and there are no facts from which we could conclude there was less favourable treatment because of sex, not least because several others were affected including male and female officers. The explanation provided by the respondent shows, quite clearly, there was no sex discrimination. It is likely that this claim is in time.

4.64 On 8 May 2020, BC Ian Thompson on the instruction of Paul Kavanagh asked the Claimant to come into work when the Claimant was self-isolating. The Claimant's absence that day was categorised at UA

(unauthorised absence) instead SI (self-isolating)

259 The claimant was instructed to attend work and, because she did not, it was recorded as unauthorised absence. The claimant did not need to self-isolate under the government guidance at the time. There are no facts from which the tribunal could conclude there was less favourable treatment because of sex. This claim is in time but cannot succeed.

5. Was any less favourable treatment accorded to the Claimant because of the Claimant's sex?

6. Are there facts from which the tribunal could decide, in the absence of any other explanation, that the Respondent discriminated against the Claimant?

7. If so, has the Respondent proved that it did not discriminate against the Claimant?

260 These questions can be answered together and are clear from what is said in our answers to each of the allegations. The claimant has not shown any less favourable treatment at all, much less any that was because of her sex. In the very few cases where the claimant was closer to showing some possible differences to male employees, such as some of their quicker progression through the ranks, the tribunal is satisfied that was not because of sex. Many of the claims are out of time and there is no conduct extending over a period to bring them in time. The claims for direct sex discrimination must all fail.

Harassment

8. Did the Respondent engage in unwanted conduct by -

First Claim

8.1 Making disrespectful gender related comments/having prejudicial attitudes towards Women at Finchley fire station;

Particulars

i. In or around February 2016, WM Asir referred to the Claimant as being a big mouthed bird that he had to work alongside.

ii. SM Madeley referred to the job as being 'one for the lads'. This was at some point during 2017 after the Claimant returned from a maternity related illness.

iii. The accommodation for female officers was redundant to a point that there was no appointed accommodation suitable for them to use without the requirement of having to be placed in potentially exposing situations. This resulted in the Claimant spending the entirety of her duration at Finchley in the female dormitory. As the Claimant was the only female officer to work at Finchley across all four watches, when the female dormitory was not being occupied by the Claimant, the men from the other watches would use it.

261 Some of these allegations are repeats of matters raised and answered under

issues 4.11-4.14 and the last one is assumed to have been withdrawn along with issue 4.7. For completeness, the claimant has not shown that these things occurred. There was no such unwanted conduct. For the most part, they appear to be out of time because the dates referred to are well before the claim form was presented in April 2018.

8.2 Keeley Foster, Andy Worsam, Sean Madeley failing, or not wanting to progress the Claimant's career.

- 262 The facts do not support this allegation. All the evidence shows officers did try to progress the claimant and, in fact, Ms Foster did progress her. It is unclear what period of time is referred to here and Ms Foster's continuing engagement might, arguably, bring the claim in time. It does not succeed on the facts.

8.3 Failing to offer the Claimant additional coaching and failing to provide the Claimant with a mentor despite her many requests for one to be provided. Making the Claimant repeat a PDR folder that she had already completed. Not allowing the Claimant the opportunity to work in the Command Unit (CU), when she asked, but allowed her male graduate counterparts to do so. Not awarding the Claimant a WMB posting like the Claimant's male graduate counterparts.

- 263 This allegation is similar to Issues 4.1, 4.10, 4.18, 4.22 and 4.28 and our answers there apply here. For completeness, the claimant has not shown these things occurred except that there was no mentor found until early 2018 and that she was only offered WM (A) postings. She is not right that all male comparators were offered WM (B). Some were but some weren't as was the case with her female colleagues. The tribunal accepts that part of this allegation amounted to unwanted conduct as the claimant did want a WM (B) posting. We answer later the question of whether it related to sex. It is difficult to ascertain which, if any, parts of this claim are in time.

8.4 WM Asir failing to conduct a return to work that took into consideration the Claimant's absence in February 2018 and the reasons behind it, and failing to record the Claimant's sickness correctly. SM Madeley and WM Asir refusing to recognise the sensitive nature of the Claimant's absence which was pregnancy related sickness.

8.5 Failing to follow the brigade's own policy guidelines with respect to the phased return to work. Note - these are the same allegations as outlined in paragraph 4.2 and 4.8 above. The Claimant also alleges that she was not provided with a binder of policy notes as FF Maurice Ellis was, nor was the Claimant provided with a robust Training Needs Analysis (TNA) by anybody.

- 264 Withdrawn at the start of the hearing

8.6 The time delay in all aspects since the Claimant's return to work. Note – these are the same allegations as outlined at paragraph 4.1, 4.2, 4.8, 4.9, 4.18, 4.26 above. The Claimant alleges that she was not engaged with whilst on LD and she was not provided with a TNA. The Claimant was eventually placed on the run still without all her relevant workwear.

- 265 Not pursued in written submissions

8.7 Subjecting the Claimant to malicious PDPs.

- 266 This is linked to issue 4.23 above. The PDPs were not malicious and there was therefore no unwanted conduct. If we are wrong and it did amount to unwanted

conduct, we answer below the question of whether any unwanted conduct was related to sex. Most of this claim is out of time with the possible exception of the last PDPs which were signed off in 2018.

8.8 Offering the Claimant WM (A) positions at Eastern Command stations, including the stations that she had been both disciplined and suspended from, even it was highlighted in the remedy section of her first ET1 that she would not work in the Eastern command;

- 267 This is linked to issue 4.22 but includes the additional complaint about Eastern Stations. Being offered a post which can be refused without consequences cannot amount to unwanted conduct. If we are wrong, we answer below the question of whether any unwanted conduct was related to sex. It appears this claim may be in time.

8.9 GM Andy Worsam being deliberately obstructive towards the Claimant –GM Worsam also refused to engage with the Claimant on any level and refused to directly respond to her e-mails or phone calls, and he complained about the Claimant paging him. GM Worsam refused to offer the Claimant a position on the Command Unit which he said was due to budgetary constraints, and he continued to offer the Claimant positions in the North East area despite his knowledge of her working and personal history in that area.

- 268 This allegation is not made out. It is linked to issue 4.18 but with more detail. The tribunal has not found that Mr Worsam was deliberately obstructive or refused to engage with the claimant. He did pass on the information about the CU. There was no unwanted conduct. If we are wrong, we answer below the question of whether any unwanted conduct was related to sex. It appears this claim may be in time.

8.10 SM Madeley telling the Claimant on or around 15 January 2018, that he was not going to allow her to deputise for him, with no reasons given.

- 269 These facts have not been made out. It is linked to issue 4.12 and the claimant cannot show unwanted conduct. It may well be in time.

Second Claim

8.11 Failure by SM Davidson to send a “welcome to the Borough” email in May 2018. He sent one to Mr Calcutt.

- 270 This allegation fails on the facts. It is the same as the first part of issue 4.30. There was no unwanted conduct. It is, in any event out of time and there is no conduct extending over a period to bring the claim in time.

8.12 Robbie Robertson made a spurious allegation to the effect that complaints had been received that the Claimant had been aggressive and abrupt during a telephone conversation with an employee from another department. Robbie Robertson issued the Claimant with a letter one in relation to the allegation which the Claimant maintains is unfounded.

- 271 This allegation fails on the facts. It is the same as issue 4.31. There was no unwanted conduct. If we are wrong, we answer below the question of whether any unwanted conduct was related to sex. The claim is also out of time.

8.13 James Ryan failed to give sufficient notification to the Claimant of a formal assessment being conducted and the assessment was not diarised.

- 272 This allegation fails on the facts. It is the same as issue 4.34. There was no unwanted conduct. It is also out of time.

8.14 James Ryan failed to follow the PRO procedure in relation to the basement incident in November 2018. He also undermined the Claimant's position with regard to the incident.

- 273 This allegation is not made out on the facts. It is the same as issue 4.35. There was no unwanted conduct.

8.15 The Respondent ignored the Claimant's concerns that she had raised with senior management and HR in December 2018.

- 274 This allegation is unclear. The claimant has not shown any of her concerns being ignored. It is not made out on the facts and there is no unwanted conduct. It would appear to be out of time, the claim form being presented in May 2019.

8.16 M Davidson and J Ryan failed to consult the Claimant in relation to FF Shaw when the Claimant was her line manager in December 2018.

- 275 This allegation is not made out on the facts. It is the same as issue 4.38. There was no unwanted conduct. If we are wrong, we answer below the question of whether any unwanted conduct was related to sex. This claim appears to be out of time.

8.17 On 27 February 2019, SM Davidson behaved in a threatening manner towards the Claimant and used aggressive language, which the Claimant alleges forced her to commence a period of sickness absence. The Claimant relies on a hypothetical comparator.

- 276 This allegation is not made out on the facts. It is the same as issue 4.42. The incident did not occur in the way described by the claimant. There was no unwanted conduct. The claim would appear to be in time.

Third Claim

8.18 Sometime in April 2020, the Claimant booked off duty after a colleague committed suicide. After the Claimant had left, Keith Williams asked Mark McManus why the Claimant had not carried out training, and he then proceeded to complain about the Claimant.

- 277 Withdrawn as the start of the hearing.

8.19 James Ryan had failed to follow the policy/protocol with regard to the return of the Claimant's PPE kit/fire gear in order to make things as awkward as possible for the Claimant. The Claimant's fire gear and white helmet was then returned to Bristol so as to cause the Claimant extra inconvenience. When the Claimant went to retrieve her fire gear, she discovered that her radio, torch, centre punch, seatbelt cutter, lift keys, haz chem guide, personal line and other items had been stolen. The Claimant reported the missing items to Paul Gleeson sometime in February 2020, but the items were not replaced until June 2020. Prior to this, the Claimant had to work at operational incidents in dangerous situations without all of her PPE.

- 278 This allegation is not made out on the facts. It is the same as issue 4.59. There were some issues with uniform and equipment but it did not amount to unwanted conduct. If we are wrong, we answer below whether it related to sex. Parts may be in time and others out of time.

8.20 DAC Kavanagh insisted that the Claimant be kept on a nine day fortnight instead of permitting her to follow the watch when she was doing light duties, when he knew that this would disrupt her child care arrangements. The Claimant spoke to HR who agreed to grant her excused absence (EA) for the days that the Claimant's partner was on duty, but DAC Kavanagh told BC S Leader to delete the EAs that had been entered onto StARS. DAC Kavanagh also reneged on the arrangements agreed for the Claimant's return to work.

- 279 This allegation is partly made out. It is the same as issue 4.60. DAC Kavanagh did instruct Mr Leader to remove the excused absence days. The tribunal accepts that was unwanted conduct. We answer below whether it related to sex.

8.21 DAC Kavanagh insisted in January 2020 that the Claimant attend a PRC in relation to an incident that took place in October 2018, and he this in order to cause her anxiety. The PRC was contrary to Policy 421 which states that a PRC must be conducted in a timely manner and that if the Incident Commander (IC) is to be unavailable for a lengthy period, a written submission could be made. The PRC was conducted by Andy Kane who issued the Claimant with a PDP in an attempt to make it look as if the Claimant performed badly on the fireground.

- 280 This allegation is not made out on the facts. It is the same as issue 4.61. The claimant was asked to attend a PRC along with others. That is not unwanted conduct. If we are wrong, we answer below whether it related to sex. It is out of time.

8.22 DAC Kavanagh attempted to place the Claimant on a watch that conflicted with her partner's shift patterns which made childcare impossible. After the Claimant filed a grievance, Paul Gleeson informed the Claimant that she would be offered green watch at Hornsey, but this was further away from the Claimant's home, it was not on her transfer list, and she had previously encountered bullying in the Borough of Haringey. The Claimant was told that the posting was temporary and that she would be allocated a permanent post when her appeal hearing was concluded. The Claimant was subsequently told that Hornsey would be her base posting.

- 281 This allegation is not made out on the facts. It is the same as issue 4.62. Mr Kavanagh did not have knowledge of the claimant's partner. There was no unwanted conduct. It appears this claim is in time.

8.23 Joseph Kenny withheld the Claimant's helmet and invented further regulations to justify the decision to not provide the Claimant with a white helmet. The Claimant believes that she was entitled to retain her white helmet, because she was legacy protected.

- 282 This allegation is not made out on the facts. It is the same as issue 4.63. The claimant was not entitled to retain her white helmet. There was no unwanted conduct. The claim appears to be in time.

8.24 On 8 May 2020, BC Ian Thompson on the instruction of Paul Kavanagh asked the Claimant to come into work when the Claimant was self-isolating. The Claimant's absence that day was categorised at UA (unauthorised absence) instead SI (self-isolating).

- 283 This is the same as issue 4.64. The claimant was instructed to come into work and her failure to do so led to her absence being recorded as unauthorised. The respondent was entitled to do this and it is not unwanted conduct. If we are wrong about that, we answer below if it related to sex. The claim is in time.

9 If so, was this treatment such which falls within section 26 of the Equality Act 2010?

10 If so, was such treatment related to her sex?

11 If so, did this have the purpose or effect of violating her dignity, or of creating an intimidating, hostile, degrading, humiliating or offensive environment for her?

- 284 These questions can be answered together. For most of the matters raised above, the tribunal finds no unwanted conduct. Where we have found unwanted conduct, or where it is possible to conclude there was such conduct because of the perception of the claimant, we find none of the conduct related to her sex. Even if there were some unwanted conduct which related to her sex, which we do not find there is, nothing the claimant raised here had the purpose or effect of violating her dignity or creating an intimidating etc environment, when we consider all the circumstances. It was not reasonable, if the claimant perceived that to be the case, for her to come to that conclusion. The harassment claims fail.

Victimisation

12 Was there a protected act or (acts)? The Claimant relies on the following:

First Claim

a. Complaint/Grievance in January 2009 relating to Tottenham

b. Employment tribunal claim of 8 March 2012

- 285 The claimant has produced no evidence of a grievance in 2009. The employment tribunal claim of 2012 was a protected act.

Second Claim

c. Complaint/Grievance July 2018

d. Complaint/Grievance November 2018 and February 2019

- 286 The complaints/grievances of July 2018 and February 2019 were protected acts but the tribunal cannot see a document for November 2018.

Third Claim

e. Complaint/Grievance July 2018

- 287 This complaint/grievance was a protected act. The protected acts are therefore the employment tribunal claim of 2012 and the complaints/grievances of July 2018 and February 2019.

13 Was the Claimant subjected to the following treatment?:

First Claim

13.1 Disrespectful gender related comments/prejudicial attitudes towards Women at Finchley fire station – in particular, Sean Madeley called women “birds” and said they were “snakes with tits” during his entire time as SC at Finchley

- 288 This allegation is linked to issue 8.1 which in turn is linked to issues 4.11-13. The claimant has not satisfied the tribunal that these things occurred. Even if they did, there is insufficient evidence to link it to any of the protected acts. It is likely to be out of time.

13.2 The Respondent failing, or not wanting to progress the Claimant’s career - this includes HR senior advisor Rob Bond who agreed in the presence of a witness that the Claimant would not have to repeat training. Keeley Foster has been obstructive in not responding to my requests for a mentor. Andy Worsam would not allow me to ride the CU or provide a mentor. Sean Madeley also would not provide me with adequate support as line manager

- 289 This allegation is not made out on the facts. It is linked to several of the matters raised as direct discrimination claims in the first claim such as issue 4.1, 4.10. The tribunal is not satisfied that any of these matters occurred. Even if they did, there is no evidence that there was any connection to the tribunal claim (which was the only protected act to pre-date these matters)

13.3 The Respondent in February 2018 failing to conduct a return to work that took into consideration the Claimant’s absence and the reasons behind it.

13.4 The Respondent failing to follow the brigade’s own policy guidelines with respect to the phased return to work

13.5 The time delay in all aspects since the Claimant’s return to work

- 290 It is believed that these matters are not pursued. They appear to be linked to issue 4.2 and 4.8 but it is not entirely clear. The tribunal has not seen or heard any evidence which supports these allegations which are vague. The claimant cannot show she was subjected to this treatment.

13.6 The Respondent subjecting the Claimant to malicious PDPs.

- 291 This is linked to issues 4.23 and 8.7. The PDPs were not malicious but were attempts to assist the claimant’s performance. The PDPs were given and the tribunal accepts that the claimant, in common with colleagues, preferred not to have PDPs. The question will be whether they were connected to the protected acts. For the most part, they are out of time, with the exception of the final PDPs not signed off until 2018.

13.7 The Respondent in February 2018 offering the Claimant WM (A) positions at Eastern Command stations, including the stations that she had been both

disciplined and suspended from, even it was highlighted in the remedy section of her first ET1 that she would not work in the Eastern command.

- 292 This is the same as issues 8.8 and some of 4.32. Whilst the claimant was offered an eastern station, she refused it. She was offered WM (A) positions for the reasons stated and the tribunal accepts it was not something she agreed with.

13.8 GM Andy Worsam being deliberately obstructive behaviour towards the Claimant. GM Worsam also refused to engage with the Claimant on any level, he refused to directly respond to her emails or phone calls, and he complained about the Claimant paging him. GM Worsam refused to offer the Claimant a position on the Command Unit, which he said was due to budgetary constraints, and he continued to offer the Claimant positions in the North East area despite his knowledge of her working and personal history in that area.

- 293 The first part of this allegation is not made out on the facts and is the same as issue 8.9. Mr Worsam did communicate his reason for not being able to offer the claimant a post to the Command Unit and he did offer her a post in the North East. We consider below whether there was any connection to the claimant's tribunal claim or grievances. It is likely that the claim is in time

13.9 SM Madeley telling the Claimant on or around 15 January 2018, that he was not going to allow her to deputise for him, with no reasons given.

- 294 This allegation is not made out on the facts and is the same as issues 4.12 and 8.10. It is likely to be in time but cannot succeed.

Second Claim

13.10 From May to November 2018, Paul Cartwright, Keeley Foster, James Ryan and Robbie Robertson failed to accept the Claimant's recognised prior learning (RPL) gained whilst she was at Finchley.

- 295 This allegation is not made out on the facts. It is the same as issue 4.29. The policy was accurately explained to the claimant. It would appear to be out of time.

13.11 Failure by SM Davidson to send a "welcome to the Borough" email to the Claimant in May 2018. He sent one to Mr Calcutt. Robbie Robertson accused the Claimant of leaving the station unsecured, even though he was there. He also informed the Claimant contrary to LFB Policy that SPL leave was unpaid.

- 296 This allegation is the same as 8.11 and 4.30. The facts show that the first matter did not occur. The other matters did occur and we consider any link to the protected acts below. It is out of time.

13.12 Robbie Robertson/Mark Davidson made a spurious allegation to the effect that complaints had been received that the Claimant had been aggressive and abrupt during a telephone call with an employee from another department. Robbie Robertson issued the Claimant with a Letter 1 in relation to the allegation which the Claimant maintains is unfounded.

- 297 This allegation is the same as 8.12 and 4.31. It is not made out on our facts except that a Letter 1 was issued. It is out of time.

13.13 Over the period August 2018 until the Claimant went sick in February 2019,

James Ryan required her to repeat work she had done. J Ryan also failed to sign the Claimant off as competent in 2018.

- 298 This is the same as issue 4.33. There is no evidence that the claimant had to repeat work but she was not signed off as competent. The claim is out of time.

13.14 James Ryan failed to give sufficient notification to the Claimant of a formal assessment being conducted and the assessment was not diarised.

- 299 This is the same as issue 4.34. The allegation is not made out on the facts and is out of time.

13.15 James Ryan failed to follow the PRO procedure in relation to the basement incident in November 2018. He also undermined the Claimant's position with regard to the incident.

- 300 This is the same as issue 4.35. It is not made out on the facts and is out of time.

13.16 In December 2018, SC Ryan accused the Claimant of falsifying her fares claim. SC Ryan scrutinised the Claimant's fares when he had not scrutinised the fares of other officers. SC Ryan ordered the Claimant to repay the fares, but the claims of the Claimant's male counterparts had been paid out to them. The Claimant asserts that it was common practice for officers to use petty cash for fares, but SC Ryan would not permit the Claimant to do this, whereas the Claimant's male counterparts were allowed to use petty cash for fares.

- 301 This is the same as issue 4.36 and the findings of fact are summarised in our answer to that issue. We consider below whether there is any connection to the claimant's tribunal claim or grievances. The matter is likely to be in time because of the continuation of disciplinary proceedings.

13.17 M Davidson and J Ryan failed to consult the Claimant in relation to FF Shaw when the Claimant was her line manager in December 2018.

- 302 This is the same as issue 4.38 and 8.16 and our findings of fact are summarised there. Whilst those managers did speak directly to FF Shaw, the tribunal do not accept those actions had any connection whatsoever to the claimant's tribunal claim or her grievances. The claim would appear to be out of time.

13.18 The tone and content of emails that SC Ryan sent to the Claimant during the period August to December 2018 were less friendly than emails he sent to the Claimant's male counterparts – (example email from SC Ryan to WM Harris). Toby Kempton would not allow the Claimant to produce evidence about SC Ryan's emails during the interview on 5 April 2019.

- 303 Withdrawn with issue 4.39

13.19 In December 2018, James Ryan alleged that the Claimant had handled the roll out of the new PPE badly.

- 304 The tribunal has heard no evidence or submissions on this point. It is not made out.

13.20 The Claimant's request for a transfer was denied in December 2018 on the grounds that she could not be transferred whilst she was on development.

- 305 This is the same as issue 4.40. The claimant was told she could not be

transferred whilst she was on development. Although the claim is out of time, we consider any possible link to the protected acts below.

13.21 In December 2018, SM Davidson and SC Ryan refused the Claimant's request to work on the Command Unit (CU).

- 306 This is the same as issue 4.41. The allegation is not made out on the facts and is out of time.

13.22 On 27 February 2019, SM Davidson behaved in a threatening manner towards the Claimant and used aggressive language, which the Claimant alleges forced her to commence a period of sickness absence. The Claimant relies on a hypothetical comparator.

- 307 This is the same as issues 4.42 and 8.17. It is not made out on the facts.

Third Claim

13.23 During the Claimant's sickness absence from February to November 2019, Peter Wolfenden, (the Claimant's contact manager), suggested to Andy Hearn and Steve Leader that the Claimant work at Mill Hill or Hendon Fire station. This suggestion was rejected, which resulted in the Claimant's sickness absence being extended. The Claimant also asserts that she suffered a demotion as a result of the Role to Rank (R2R) process being implemented whilst she was on sick leave.

- 308 This is the same as issue 4.43. The suggestion that the claimant transfer to Mill Hill was made and rejected. The tribunal does not accept the claimant was demoted. Although the claim is out of time, we consider below any possible connection to the protected acts.

13.24 In April 2019, the Claimant attended a grievance hearing which was conducted by Toby Kempston. During the hearing, Toby Kempston was aggressive and obstructive towards the Claimant – specifically he refused to allow the Claimant to produce evidence, He continually interrupted the Claimant, he accused the Claimant of being rude, and he refused to listen to a voice recording the Claimant had made of a meeting between the Claimant and James Ryan. The Respondent also refused to hear the Claimant's grievance in relation the refund of her fares and Toby Kempston refused to discuss this issue during the hearing in April 2019.

- 309 This is the same as issue 4.45. It is not made out on the facts.

13.25 The Respondent contrived and concocted spurious claims against the Claimant – in particular, Paul Gleeson issued a Letter 1 to the Claimant for making incorrect statements. This issue arose out of the Claimant's allegation about sub officers at Willesden being in possession of white Lids (Helmets). The Letter 1 was issued despite the Claimant having a photograph of Richard Calcutt's white helmet.

- 310 This is the same as issue 4.47. It is not made out on the facts. A Letter 1 was issued for good reason. We consider below any possible connection to the protected acts. The claim would appear to be in time.

- 311 *13.26 In September 2019, the Claimant attended a grievance hearing with Alan Taylor. During the hearing, the HR adviser, Josie Durand suggested West Hampstead as a location for the Claimant's return to work. The Claimant asserts that this was an attempt by the Respondent to force the Claimant out of the organisation by placing her in a location that would cause her stress and anxiety, on the basis that the Station Manager at West Hampstead was a bully.*
- 312 *13.27 Sometime in April 2020, the Claimant booked off duty after a colleague committed suicide. After the Claimant had left, Keith Williams asked Mark McManus why the Claimant had not carried out training, and he then proceeded to complain about the Claimant.*
- 313 *13.28 The Claimant's attempt to book her scale A leave was met with hostility, confrontation and unwillingness from Steve Smith, Chloe Van Dop – both were rude and obstreperous on the phone. They failed to assist the Claimant and asked her why she had contacted them directly.*
- 314 All those above were withdrawn at the start of the hearing.
- 13.29 James Ryan had failed to follow the policy/protocol with regard to the return of the Claimant's PPE kit/fire gear in order to make things as awkward as possible for the Claimant. The Claimant's fire gear and white helmet was then returned to Bristol so as to cause the Claimant extra inconvenience. When the Claimant went to retrieve her fire gear, she discovered that her radio, torch, centre punch, seatbelt cutter, lift keys, haz chem guide, personal line and other items had been stolen. The Claimant reported the missing items to Paul Gleeson sometime in February 2020, but the items were not replaced until June 2020. Prior to this, the Claimant had to work at operational incidents in dangerous situations without all of her PPE.*
- 315 This is the same as issues 4.59 and 8.19. It is not made out on the facts. The part involving Mr Gleeson would appear to be in time.
- 13.30 DAC Kavanagh insisted that the Claimant be kept on a nine day fortnight instead of permitting her to follow the watch when she was doing light duties, when he knew that this would disrupt her child care arrangements. The Claimant spoke to HR who agreed to grant her excused absence (EA) for the days that the Claimant's partner was on duty, but DAC Kavanagh told BC S Leader to delete the EAs that had been entered onto StARS. DAC Kavanagh also reneged on the arrangements agreed for the Claimant's return to work.*
- 316 This is the same as issues 4.60 and 8.20. DAC Kavanagh did give the instruction to remove the excused attendance days. It is likely to be in time and we consider any possible connection to the protected acts below.
- 13.31 DAC Kavanagh insisted in January 2020 that the Claimant attend a PRC in relation to an incident that took place in October 2018, and he did this in order to cause her anxiety. The PRC was contrary to Policy 421 which states that a PRC*

must be conducted in a timely manner and that if the Incident Commander (IC) is to be unavailable for a lengthy period, a written submission could be made. The PRC was conducted by Andy Kane who issued the Claimant with a PDP in an attempt to make it look as if the Claimant performed badly on the fireground.

- 317 This is the same as issues 4.61 and 8.21. The claimant was asked to attend a PRC along with others but not to cause her anxiety. It is not made out on the facts and is out of time.

13.32 DAC Kavanagh attempted to place the Claimant on a watch that conflicted with her partner's shift patterns which made childcare impossible. After the Claimant filed a grievance, Paul Gleeson informed the Claimant that she would be offered green watch at Hornsey, but this was further away from the Claimant's home, it was not on her transfer list, and she had previously encountered bullying in the Borough of Haringey. The Claimant was told that the posting was temporary and that she would be allocated a permanent post when her appeal hearing was concluded. The Claimant was subsequently told that Hornsey would be her base posting

- 318 This is the same as issues 4.62 and 8.22. It is not made out on the facts but is likely to be in time..

13.33 Joseph Kenny withheld the Claimant's helmet and invented further regulations to justify the decision to not provide the Claimant with a white helmet. The Claimant believes that she was entitled to retain her white helmet, because she was legacy protected.

- 319 This is the same as issues 4.63 and 8.23. It is not made out on the facts but is likely to be in time.

13.34 On 8 May 2020, BC Ian Thompson on the instruction of Paul Kavanagh asked the Claimant to come into work when the Claimant was self-isolating. The Claimant's absence that day was categorised at UA (unauthorised absence) instead SI (self-isolating).

- 320 This is the same as issues 4.64 and 8.24. The claimant's absence was recorded as unauthorised as she was not entitled to self-isolate. It is likely to be in time and we consider any possible connection to the protected acts below.

- 14 *If so, was she subjected to this treatment because she had undertaken protected acts?*

- 321 As can be seen, the majority of the above allegations are not made out on the facts. In many cases, matters did not occur in the way described by the claimant or cannot be said to be detriments.

- 322 Where they could possibly amount to a detriment, such as in 13.6 (where she was issued with PDPs); 13.7 (being offered WM (A) postings in the east; 13.12 and 13.25 (where Letters 1 were issued)13.20 and 13.23 (where she was not allowed to transfer), 13.16 (the fares issue) and the later allegations involving Mr Kavanagh, the tribunal cannot see any connection to the claimant having

made protected acts. The employment tribunal claim was made and settled many years before. There is nothing to link Mr Asir who issued the PDPs to that claim. Nor do the actions of Mr Robertson or Mr Davidson seem to be in any way connected to that or later grievances. There is no evidence that Mr Ryan took any of the steps he did because of the claimant's tribunal claim or grievances.

- 323 We considered the later matters raised might show some connection because, by then the claimant had made at least two further protected acts in the 2018 and 2019 grievances. We have considered this with care but are satisfied, on the evidence before us, that no steps were taken which had any such connection. The claimant had raised complaints and grievances against many managers and many other managers considered those complaints. If there were some matters, out of the many complained about which amounted to detriments, they were not done because of any of the protected acts. The claims for victimisation fail.
- 324 This means all the claimant's claims must fail and they are dismissed.

Employment Judge Manley

Dated: 26 August 2022

Sent to the parties on:

31 August 2022

For the Tribunal:

N Gotecha

LFB	London Fire Brigade
FBU	Fire Brigades Union
NJC	National Joint Council
GES	Graduate Entry Scheme
EPT	Establishment and Performance team
FF	Firefighter
CM	Crew Manager (now Leading Firefighter)
WM(A)	Watch Manager A (now Sub Officer)
WM(B)	Watch Manager B (now Station Officer)
SM	Station Manager (now Commander)
DAC	Deputy Assistant Commissioner
CU	Command Unit
IMP	Incident Monitoring Process
LMI	Local Management Investigation
PDP	Personal Development Plan
PDR	Personal and Development Record
PDL	Personal Development Log
PRC	Performance Review of Command
RPO	Performance Review of Operations
RPL	Recognised Prior Learning
R2R	Role to Rank
StARS	Staff Electronic Record System
TNA	Training Needs Analysis

Jurisdictional Issues

Discrimination time limits

1. *Have the Claimant's claims been brought within three months of the acts complained of (S 123 Equality Act 2010) (as extended by Early Conciliation).*
2. *In respect of any complaints which are out of time, do they form part of a continuing act, taken together with acts which are in time?*
3. *If there is no continuing act, is it just and equitable for the tribunal to extend time in relation to earlier alleged acts of discrimination, harassment, or victimisation.*

Direct Sex discrimination

4. *Did the Respondent subject the Claimant to less favourable treatment by –*

First Claim

- 4.1 *Failing to provide the Claimant with a mentor over the period April 2015 to May 2018*
- 4.2 *Placing the Claimant on light duties for an inordinate period of time in April 2015 whilst she was awaiting work wear.*
- 4.3 *Warning Senior Officers and various personnel about the Claimant's arrival at Finchley fire station in 2015 following her previous suspension and legal wranglings with the Respondent. Phil Towers advised along with Martin Devine that Steve Leader would go into the CFS room and divulge information about what he had heard about the Claimant's character and her background when the Claimant started at Finchley in July 2015 – Steve Leader said that the Claimant was a troublemaker; that the Claimant had a previous court case and so they should be cautious and guarded in her presence; and that he, (Steve Leader) had no choice about the Claimant working at Finchley as the decision had been made above his head.*
- 4.4 *Spreading damaging rumours about the Claimant - WM Colin Digby made comments and continues to make comments about the Claimant's work ethic – to FF James Gilham and other LFB personnel during a recruitment fair at Havering college towards the end of 2017 that the Claimant was useless at her job, and that she was a trouble maker. WM Digby stated to WM Mehmet Asir whilst on a course that they attended in 2017 that the Claimant was useless at her job and that he felt sorry for WM Asir because he had to work with the Claimant.*
- 4.5 *Not providing the Claimant with a compilation of revision notes to aid her return to work (July 2015)*

Comparator – FF Maurice Ellis was given a compilation of revision notes by SM Alie

4.6 Steve Leader telling the Claimant in 2015 that she would have to undertake the London Incident Management (LIM) training and the Supervisory Managers Incident Command Refresher (SMICR) training.

Comparator – FF Maurice Ellis was told he would only need to undertake the SMICR and not the LIM.

~~4.7 Failing to provide suitable separate facilities for female officers until 2017.~~

4.8 Keeping the Claimant on light duties for approx. 6 months in 2015 before she was placed on the run in September 2015.

4.9 Delays in opening the Claimant's Personal Development Record in 2016.

4.10 R Bond told the Claimant in February 2016 that she would not have to repeat training such as the CM Training courses, but he then reneged on that position and insisting that the Claimant repeat the CM Training courses.

4.11 SM Madeley said in December 2017 that the SM Job is 'one for the boys'

4.12 SM Madeley overlooked the Claimant for deputisation in January 2018, despite her qualifications and fast track status.

4.13 From September 2015 until his retirement date, SM Madeley made reference to the Claimant's reputation following her suspension and legal action in 2011; SM Madeley said that everywhere he went he was told, oh you've got that Rachel Spread on station, I bet she's causing you problems; that the Claimant was referred to as a 'nightmare', 'trouble', 'not to be trusted', 'don't upset her whatever you do' SM Madeley said this happened continually throughout the entire time period that the Claimant was at Finchley until his departure from the LFB

4.14 WM Asir telling WM Smith before he had even met the Claimant that the Claimant was "a big mouth bird who is nothing but trouble" in or around Feb 2016, and that he did not want the Claimant deputising for him in his absence. WM Asir also stated that the Claimant was a big mouth, a troublemaker, and a crap officer. He said that he can't do anything with the Claimant and that she would not do anything she was told to do

4.15 No personnel wanting to work with the Claimant because of her reputation

4.16 By spreading rumours that the Claimant had been sacked. WM Asir and SM Madeley talked about the Claimant having been sacked. A number of staff informed the Claimant's partner when he was standing by at Stoke Newington fire station that the Claimant had been sacked. The Claimant alleges that Kam Hussain and Jason Mitchell told her partner that they had heard rumours that the Claimant had been sacked, even though they did not work in the same command as the Claimant.

- 4.17 There being an institutionalised sexist attitude at Finchley station and among the people who were directly involved with the Claimant's career progression.
- 4.18 GM Worsam telling the Claimant in front of WM Asir in August 2016 that he couldn't think of anyone who would be the Claimant's mentor.
- ~~4.19 Andrew Cross recording the Claimant's sickness in such a way that she was ineligible to apply for pre-arranged over time. The Claimant alleges that if her absence had been recorded as "maternity related" she would still have been eligible to apply for pre-arranged over time in February 2016.~~
- ~~4.20 WM Asir offering the Claimant an WM(A) position at Southall and denying her a posting that was close to where she lived (February 2016).~~
- 4.21 SM Madeley sending the Claimant on a WM booster course on her off-duty days, when the Respondent knew about the Claimant's complex childcare arrangements due to the Claimant having pre-school triplets and a teenager (May 2017)
- 4.22 SM Madeley and GM Worsam offering the Claimant WM(A) postings and telling her that the WM(A) posting was the next logical move. The Claimant asserts that the WM(B) posting should have been the next logical move (March 2017).
- 4.23 Issuing PDPs to the Claimant over the period 2015 to 2018 as a form of punishment rather than development, because of her reputation. The Claimant relies on the following PDPs

<u>Date PDP issued</u>	<u>Title of PDP</u>	<u>Date PDP signed off</u>
12/04/2016	safety officer development/ radio procedure	12/05/2016
04/11/2016	vehicle manoeuvring	31/12/2016
11/12/2017	466 development	12/01/2018
11/12/2017	320 appearance on duty	12/01/2018

- i. The Claimant alleges that the PDP dated 12 April 2016 was issued by WM Asir at the direction of SM Madeley. The Claimant alleges that there was no basis for the issue of the PDP, and also that it was not in line with the Respondent's guidelines, as it was not properly investigated. The Claimant stated that she contacted both WM Asir and SM Madeley and objected to the PDP, but she was told that it was easier just to have it on her record and that it would be signed off as complete.

- ii. The Claimant alleges that the PDP dated 4 November 2016 was issued incorrectly as the events had not been substantiated. The Claimant alleges that the PDP was issued again with the promise it would be signed off as complete in a month.*
- iii. The Claimant alleges that the PDPs dated 11 December 2017 were issued together by WM Asir before he left the watch. With regard to the PDP entitled “466 Development”, the Claimant alleges that WM Asir sent her for training at Park Royal, after she had issued a grievance against the trainers at this location, and so the PDP was issued unfairly. With regard to the PDP entitled “320 appearance on duty”, The Claimant alleges that the PDP should not have been used to address a conduct/performance issue. The Claimant also alleges that WM Asir waited almost two years to issue the PDP entitled “320 appearance on duty”.*
- iv. The Claimant alleges that the PDP’s were not issued in accordance with the Respondent’s guidelines. The Claimant also alleges that the PDPs were only issued for a month and then signed off as complete. The Claimant alleges that the PDPs were used against her in a punitive manner rather than as a development tool.*
- v. The Claimant alleges that the PDPs were issued maliciously. She also claims that WM Chris Burrows told her that WM Asir and SM Madely wanted her to hang herself.*

4.24 Personnel referring to the Claimant and her reputation in a detrimental manner over the period 2015 to 2018:

- i. SM Madeley, throughout his duration as the Claimant’s SM at Finchley;*
- ii. WM WM Asir, throughout his entire time at Finchley, continually gave the Claimant examples of people like WM/FF Cam who had referred to her reputation;*
- iii. SM Digby told the Claimant that everywhere he went, he was always asked about The Claimant - Crews asked him about her on incidents and they were always disparaging of her. SM Digby repeated all the remarks the Crews had made of her character, including speculation regarding her previous tribunal claim and the fact that they all felt that she had been dismissed;*
- iv. WM Smith told the Claimant that he had heard defamatory remarks about her and he repeated what he had heard, even stating that the watch she was on was a poisoned chalice and that it was regarded as such by people because she was on the watch;*

v. WM Burrows had told the Claimant that WM Asir continually referred to the Claimant in a derogatory manner. This happened throughout her entire duration at Finchley.

~~4.25 WM Huffington telling the Claimant in April 2015 that he knew about her reputation and telling the Claimant in August 2015 that he was not thrilled about her being posted to the watch, given her history.~~

4.26 Failing to provide a consistent manager who would be responsible for managing the Claimant's progression. The Claimant's progression was managed by GM Worsam who retired and was replaced by Matt Herrington, who lasted in post for a fortnight before the Claimant advised that the role within the GES has been deleted; ultimately leaving no operational line manager to deal with her progression (March 2018)

4.27 The Claimant is unlikely to progress due to the introduction by the Respondent of a two tier system with regard to the WM post. The Claimant alleges that the brigade deliberately withheld her development being only too aware of the forthcoming implementation of R2R. The Claimant alleges that her development was hindered by deliberate obstacles, unfair practices and nepotism, and that she has been placed at risk of demotion. The Claimant alleges that she sat the CM course and passed it, whereas IE SC John Carpenter (who was not on the fast track scheme), failed the CM course, but he is now three ranks higher than the Claimant.

4.28 The Claimant asserts that the following comparators started on the GES at the same time as the Claimant, but they have progressed to more senior positions than the Claimant;

Comparators – WM (B) Rob Pratt, WM (B) Gavin Jones, SM Richard Abbott, SM Charles Hanks, GM Paul Fitzgerald and WM (B) David Murphy.

Second Claim

4.29 From May to November 2018, Paul Cartwright, Keeley Foster, James Ryan and Robbie Robertson failed to accept the Claimant's recognised prior learning [RPL] gained whilst she was at Finchley

Comparators - Glen Radley, Mehmet Asir, Andy Bathie and Matt Richards

4.30 Failure by SM Davidson to send a "welcome to the Borough" email to the Claimant in May 2018. He sent one to Mr Calcutt. Robbie Robertson accused the Claimant of leaving the station unsecured, even though he was there. He also informed the Claimant contrary to LFB Policy that SPL leave was unpaid

4.31 Robbie Robertson/Mark Davidson made a spurious allegation to the effect that complaints had been received that the Claimant had been aggressive and abrupt during a telephone call to employees from another department. Robbie Robertson issued the Claimant with a Letter 1 in relation to the allegation which the Claimant maintains is unfounded.

4.32 *In the period up to December 2018, the Claimant was only been offered WM(A) posts, whereas her male comparators have been offered WM(B) and Command Unit (CU) roles. The Claimant relies on the comparators listed at above*

4.33 *Over the period August 2018 until the Claimant went sick in February 2019, James Ryan required her to repeat work she had done. James Ryan also failed to sign the Claimant off as competent in 2018*

Comparators - Alex Cardy, Lee Harris, Richard Calcutt

4.34 *James Ryan failed to give sufficient notification to the Claimant of a formal assessment being conducted and the assessment was not diarised*

Comparator - Richard Calcutt

4.35 *James Ryan failed to follow the PRO procedure in relation to the basement incident in November 2018. He also undermined the Claimant's position with regard to the incident – Claimant relies on a hypothetical comparator with regard to this allegation.*

4.36 *In December 2018, SC Ryan accused the Claimant of falsifying her fares claim. SC Ryan scrutinised the Claimant's fares when he had not scrutinised the fares of other officers. SC Ryan ordered the Claimant to repay the fares, but the claims of the Claimant's male counterparts had been paid out to them. The Claimant asserts that it was common practice for officers to use petty cash for fares, but SC Ryan would not permit the Claimant to do this, whereas the Claimant's male counterparts were allowed to use petty cash for fares.*

Comparator - Alex Cardy

4.37 *SC Ryan issued the Claimant with a warning for wearing a T shirt on duty.*

Comparators - WM Lee Harris and Alex Cardy

4.38 *M Davidson and J Ryan failed to consult the Claimant in relation to FF Shaw when the Claimant was her line manager in December 2018.*

Comparator - WM Lee Harris

~~4.39 *The tone and content of emails that SC Ryan sent to the Claimant during the period August to December 2018 were less friendly than emails he sent to the Claimant's male counterparts – (example email from SC Ryan to WM Harris). Toby Kempton would not allow the Claimant to produce evidence about SC Ryan's emails during the interview on 5 April 2019. [Paragraph 25 ET1]*~~

4.40 *The Claimant's request for a transfer was denied in December 2018 on the grounds that she could not be transferred whilst she was on development.*

Comparators – Russ Ward, Ibrahim Ntege

- 4.41 *In December 2018, SM Davidson and SC Ryan refused the Claimant's request to work on the Command Unit (CU).*
- 4.42 *On 27 February 2019, SM Davidson behaved in a threatening manner towards the Claimant and used aggressive language, which the Claimant alleges forced her to commence a period of sickness absence. The Claimant relies on a hypothetical comparator.*

Third Claim

- 4.43 *During the Claimant's sickness absence from February to November 2019, Peter Wolfenden, (the Claimant's contact manager), suggested to Andy Hearn and Steve Leader that the Claimant work at Mill Hill or Hendon Fire station. This suggestion was rejected, which resulted in the Claimant's sickness absence being extended. The Claimant also asserts that she suffered a demotion as a result of the Role to Rank (R2R) process being implemented whilst she was on sick leave*

Comparators – Jem Cam, Ed Thurston, C Cartwright, Robert Meech, Dave Murphy and Paul Fitzgerald

- 4.44 *The Respondent rejected the recommendation of Peter Wolfenden that the Claimant's sickness absence in February until November 2019 be classified as "Due to Service". The Respondent did not follow process for dealing with "Due to Service" applications in that the requisite form was not signed*

Comparator – Kamran Hussain and Christopher Reid

- 4.45 *In April 2019, the Claimant attended a grievance hearing which was conducted by Toby Kempton. During the hearing, Toby Kempton was aggressive and obstructive towards the Claimant – specifically he refused to allow the Claimant to produce evidence, he continually interrupted the Claimant, he accused the Claimant of being rude, and he refused to listen to a voice recording the Claimant had made of a meeting between the Claimant and James Ryan. The Respondent also refused to hear the Claimant's grievance in relation the refund of her fares and Toby Kempton refused to discuss this issue during the hearing in April 2019*

- 4.46 *The Respondent has not heard the Claimant's grievance about her referral to stage 1 of the Respondent's disciplinary procedure, almost two years after the fares issue arose. The manager appointed to hear the appeal, Kevin McKenzie, informed the Claimant that the appeal would take the form of a review rather than a full appeal hearing, which the Claimant asserts is in breach of the grievance procedure, the ACAS guidelines and the grey book.*

Comparator – Alex Cardy and Glen Radley

- 4.47 *The Respondent contrived and concocted spurious claims against the Claimant – in particular, Paul Gleeson issued a Letter 1 to the Claimant for making incorrect statements. This issue arose out of the Claimant's allegation*

about sub officers at Willesden being in possession of white Lids (Helmets). The Letter 1 was issued despite the Claimant having a photograph of Richard Calcutt's white helmet.

~~4.48 In September 2019, the Claimant attended a grievance hearing with Alan Taylor. During the hearing, the HR adviser, Josie Durand suggested West Hampstead as a location for the Claimant's return to work. The Claimant asserts that this was an attempt by the Respondent to force the Claimant out of the organisation by placing her in a location that would cause her stress and anxiety, on the basis that the Station Manager at West Hampstead was a bully — [Paragraph 12 ET1].~~

4.49 Catherine Gibbs advised a senior manager (BC Ian Thompson) against his own judgement to reject the Claimant's grievances that were lodged upon her return to work in May 2020 onwards – specifically online grievance ref 124, 129 and 134 as well as the HCPs sent to the Respondent in May 2020.

Comparator – Paul Fitzgerald, Glen Radley.

~~4.50 Sometime in April 2020, the Claimant booked off duty after a colleague committed suicide. After the Claimant had left, Keith Williams asked Mark McManus why the Claimant had not carried out training, and he then proceeded to complain about the Claimant — [Paragraph 14 ET1]~~

Comparator – Brian Flanagan

4.51 It was agreed that the Claimant would return to work to Finchley station doing project work, however when she arrived at Finchley, the project work was not forthcoming.

Comparator – Paul Gleeson

4.52 The Respondent carried out a stage 1 capability hearing with the Claimant, even though Peter Wolfenden disagreed that a capability hearing was appropriate. Peter Wolfenden told the Claimant that David Amis tried to pressure him to conduct the capability hearing. Peter Wolfenden also told the Claimant that the Respondent was trying to get rid of her.

~~4.53 The Claimant's attempt to book her scale A leave was met with hostility, confrontation and unwillingness from Steve Smith, Chloe Van Dop — both were rude and obstreperous on the phone. They failed to assist the Claimant and asked her why she had contacted them directly — [Paragraph 17 ET1].~~

Comparator – hypothetical comparator

4.54 The Claimant's performance and development review (PDR) should have been done in January 2020, but was not done until July 2020, causing her a financial detriment. The Claimant also asserts that her career progression was also affected because she was required to repeat elements on sub officer

training. The Claimant asserts that DAC Kavanagh told Paul Gleeson that he did not need to review her PDR.

4.55 DAC Paul Kavanagh refused the Claimant's request to carry over leave from 2019.

4.56 Whilst the Claimant was on light duties at Finchley station, she was ostracized and left in a remote part of the station. She was not given any meaningful work to do and had very little contact with her manager.

Comparators – Kam Hussein and Jason Mitchell

4.57 The Claimant's base posting remained at Willesden blue watch, despite the recommendation of her GP and HML that she should return to work under a different management chain, and despite her grievance against Mark Davidson in which she alleged that he had verbally assaulted and threatened her. The Claimant had to wait a further 6 months before she was allowed to go back onto operational duties

Comparator – Russ Nevill

4.58 The Claimant was not given a prescriptive TNA, she had to arrange her own training and was largely ignored.

Comparator – Kamran Hussein

4.59 James Ryan had failed to follow the policy/protocol with regard to the return of the Claimant's PPE kit/fire gear in order to make things as awkward as possible for the Claimant. The Claimant's fire gear and white helmet was then returned to Bristol so as to cause the Claimant extra inconvenience. When the Claimant went to retrieve her fire gear, she discovered that her radio, torch, centre punch, seatbelt cutter, lift keys, haz chem guide, personal line and other items had been stolen. The Claimant reported the missing items to Paul Gleeson sometime in February 2020, but the items were not replaced until June 2020. Prior to this, the Claimant had to work at operational incidents in dangerous situations without all of her PPE.

Comparator – Julian Gifford

4.60 DAC Kavanagh insisted that the Claimant be kept on a nine day fortnight instead of permitting her to follow the watch when she was doing light duties, when he knew that this would disrupt her child care arrangements. The Claimant spoke to HR who agreed to grant her excused absence (EA) for the days that the Claimant's partner was on duty, but DAC Kavanagh told BC Steve Leader to delete the EAs that had been entered onto StARS. DAC Kavanagh also reneged on the arrangements agreed for the Claimant's return to work.

Comparator – Paul Gleeson

4.61 DAC Kavanagh insisted in January 2020 that the Claimant attend a PRC in relation to an incident that took place in October 2018, and that he did this in order to cause her anxiety. The PRC was contrary to Policy 421, which states that a PRC must be conducted in a timely manner and that if the Incident Commander (IC) is to be unavailable for a lengthy period, a written submission could be made. The PRC was conducted by Andy Kane who issued the Claimant with a PDP in an attempt to make it look as if the Claimant performed badly on the fireground.

Comparator – hypothetical comparator

4.62 DAC Kavanagh attempted to place the Claimant on a watch that conflicted with her partner's shift patterns which made childcare impossible. After the Claimant filed a grievance, Paul Gleeson informed the Claimant that she would be offered green watch at Hornsey, but this was further away from the Claimant's home, it was not on her transfer list, and she had previously encountered bullying in the Borough of Haringey. The Claimant was told that the posting was temporary and that she would be allocated a permanent post when her appeal hearing was concluded. The Claimant was subsequently told that Hornsey would be her base posting.

4.63 Joseph Kenny withheld the Claimant's helmet and invented further regulations to justify the decision to not provide the Claimant with a white helmet. The Claimant believes that she was entitled to retain her white helmet, because she was legacy protected.

4.64 On 8 May 2020, BC Ian Thompson on the instruction of Paul Kavanagh asked the Claimant to come into work when the Claimant was self-isolating. The Claimant's absence that day was categorised as UA (unauthorised absence) instead SI (self-isolating)

5. Was any less favourable treatment accorded to the Claimant because of the Claimant's sex?
6. Are there facts from which the tribunal could decide, in the absence of any other explanation, that the Respondent discriminated against the Claimant?
7. If so, has the Respondent proved that it did not discriminate against the Claimant?

Harassment

8. Did the Respondent engage in unwanted conduct by

First Claim

- 8.1 Making disrespectful gender related comments/having prejudicial attitudes towards Women at Finchley fire station;

Particulars

- i. In or around February 2016, WM Asir referred to the Claimant as being a big mouthed bird that he had to work alongside.

- ii. *SM Madeley referred to the job as being 'one for the lads'. This was at some point during 2017 after the Claimant returned from a maternity related illness.*
- iii. *The accommodation for female officers was redundant to a point that there was no appointed accommodation suitable for them to use without the requirement of having to be placed in potentially exposing situations. This resulted in the Claimant spending the entirety of her duration at Finchley in the female dormitory. As the Claimant was the only female officer to work at Finchley across all four watches, when the female dormitory was not being occupied by the Claimant, the men from the other watches would use it.*

8.2 Keeley Foster, Andy Worsam, Sean Madeley failing, or not wanting to progress the Claimant's career.

8.3 Failing to offer the Claimant additional coaching and failing to provide the Claimant with a mentor despite her many requests for one to be provided. Making the Claimant repeat a PDR folder that she had already completed. Not allowing the Claimant the opportunity to work in the Command Unit (CU), when she asked, but allowed her male graduate counterparts to do so. Not awarding the Claimant a WMB posting like the Claimant's male graduate counterparts.

~~*8.4 WM Asir failing to conduct a return to work that took into consideration the Claimant's absence in February 2018 and the reasons behind it, and failing to record the Claimant's sickness correctly. SM Madeley and WM Asir refusing to recognise the sensitive nature of the Claimant's absence which was pregnancy related sickness.*~~

8.5 Failing to follow the brigade's own policy guidelines with respect to the phased return to work. Note - these are the same allegations as outlined in paragraph 4.2 and 4.8 above. The Claimant also alleges that she was not provided with a binder of policy notes as FF Maurice Ellis was, nor was the Claimant provided with a robust Training Needs Analysis (TNA) by anybody.

8.6 The time delay in all aspects since the Claimant's return to work. Note – these are the same allegations as outlined at paragraph 4.1, 4.2, 4.8, 4.9, 4.18, 4.26 above. The Claimant alleges that she was not engaged with whilst on LD and she was not provided with a TNA. The Claimant was eventually placed on the run still without all her relevant workwear.

8.7 Subjecting the Claimant to malicious PDPs – paragraph 4.23 above.

8.8 Offering the Claimant WM (A) positions at Eastern Command stations, including the stations that she had been both disciplined and suspended from, even it was highlighted in the remedy section of her first ET1 that she would not work in the Eastern command;

8.9 GM Andy Worsam being deliberately obstructive towards the Claimant – paragraph 4.18 above. GM Worsam also refused to engage with the Claimant on any level and refused to directly respond to her e-mails or phone calls, and he complained about the Claimant paging him. GM Worsam refused to offer the Claimant a position on the Command Unit which he said was due to budgetary constraints, and he continued to offer the Claimant positions in the North East area despite his knowledge of her working and personal history in that area.

8.10 SM Madeley telling the Claimant on or around 15 January 2018, that he was not going to allow her to deputise for him, with no reasons given.

Second Claim

8.11 Failure by SM Davidson to send a “welcome to the Borough” email in May 2018. He sent one to Mr Calcutt.

8.12 Robbie Robertson made a spurious allegation to the effect that complaints had been received that the Claimant had been aggressive and abrupt during a telephone conversation with an employee from another department. Robbie Robertson issued the Claimant with a letter one in relation to the allegation which the Claimant maintains is unfounded.

8.13 James Ryan failed to give sufficient notification to the Claimant of a formal assessment being conducted and the assessment was not diarised.

8.14 James Ryan failed to follow the PRO procedure in relation to the basement incident in November 2018. He also undermined the Claimant’s position with regard to the incident.

8.15 The Respondent ignored the Claimant’s concerns that she had raised with senior management and HR in December 2018.

8.16 M Davidson and J Ryan failed to consult the Claimant in relation to FF Shaw when the Claimant was her line manager in December 2018.

8.17 On 27 February 2019, SM Davidson behaved in a threatening manner towards the Claimant and used aggressive language, which the Claimant alleges forced her to commence a period of sickness absence. The Claimant relies on a hypothetical comparator.

Third Claim

~~8.18 Sometime in April 2020, the Claimant booked off duty after a colleague committed suicide. After the Claimant had left, Keith Williams asked Mark McManus why the Claimant had not carried out training, and he then proceeded to complain about the Claimant — [Paragraph 14 ET1]~~

8.19 James Ryan had failed to follow the policy/protocol with regard to the return of the Claimant’s PPE kit/fire gear in order to make things as awkward as possible for the Claimant. The Claimant’s fire gear and white helmet was then

returned to Bristol so as to cause the Claimant extra inconvenience. When the Claimant went to retrieve her fire gear, she discovered that her radio, torch, centre punch, seatbelt cutter, lift keys, haz chem guide, personal line and other items had been stolen. The Claimant reported the missing items to Paul Gleeson sometime in February 2020, but the items were not replaced until June 2020. Prior to this, the Claimant had to work at operational incidents in dangerous situations without all of her PPE.

8.20 DAC Kavanagh insisted that the Claimant be kept on a nine day fortnight instead of permitting her to follow the watch when she was doing light duties, when he knew that this would disrupt her child care arrangements. The Claimant spoke to HR who agreed to grant her excused absence (EA) for the days that the Claimant's partner was on duty, but DAC Kavanagh told BC S Leader to delete the EAs that had been entered onto StARS. DAC Kavanagh also reneged on the arrangements agreed for the Claimant's return to work.

8.21 DAC Kavanagh insisted in January 2020 that the Claimant attend a PRC in relation to an incident that took place in October 2018, and he this in order to cause her anxiety. The PRC was contrary to Policy 421 which states that a PRC must be conducted in a timely manner and that if the Incident Commander (IC) is to be unavailable for a lengthy period, a written submission could be made. The PRC was conducted by Andy Kane who issued the Claimant with a PDP in an attempt to make it look as if the Claimant performed badly on the fireground.

8.22 DAC Kavanagh attempted to place the Claimant on a watch that conflicted with her partner's shift patterns which made childcare impossible. After the Claimant filed a grievance, Paul Gleeson informed the Claimant that she would be offered green watch at Hornsey, but this was further away from the Claimant's home, it was not on her transfer list, and she had previously encountered bullying in the Borough of Haringey. The Claimant was told that the posting was temporary and that she would be allocated a permanent post when her appeal hearing was concluded. The Claimant was subsequently told that Hornsey would be her base posting.

8.23 Joseph Kenny withheld the Claimant's helmet and invented further regulations to justify the decision to not provide the Claimant with a white helmet. The Claimant believes that she was entitled to retain her white helmet, because she was legacy protected.

8.24 On 8 May 2020, BC Ian Thompson on the instruction of Paul Kavanagh asked the Claimant to come into work when the Claimant was self-isolating. The Claimant's absence that day was categorised at UA (unauthorised absence) instead SI (self-isolating).

9 If so, was this treatment such which falls within section 26 of the Equality Act 2010?

10 If so, was such treatment related to her sex?

- 11 *If so, did this have the purpose or effect of violating her dignity, or of creating an intimidating, hostile, degrading, humiliating or offensive environment for her?*

Victimisation

- 12 *Was there a protected act or (acts)? The Claimant relies on the following:*

First Claim

- a. *Complaint/Grievance in January 2009 relating to Tottenham*
- b. *Claimant's claim dated 8th March 2012*

Second Claim

- c. *Complaint/Grievance July 2018*
- d. *Complaint/Grievance November 2018*
- e. *and February 2019*

Third Claim

- f. *Complaint/Grievance July 2018*
- g. *Complaint Grievance November 2018*

- 13 *Was the Claimant subjected to the following treatment?:*

First Claim

- 13.1 *Disrespectful gender related comments/prejudicial attitudes towards Women at Finchley fire station – in particular, Sean Madeley called women “birds” and said they were “snakes with tits” during his entire time as SC at Finchley*
- 13.2 *The Respondent failing, or not wanting to progress the Claimant's career - this includes HR senior advisor Rob who agreed in the presence of a witness that the Claimant would not have to repeat training. Keeley Foster has been obstructive in not responding to my requests for a mentor. Andy Worsam would not allow me to ride the CU or provide a mentor. Sean Madeley also would not provide me with adequate support as line manager*
- 13.3 *The Respondent in February 2018 failing to conduct a return to work that took into consideration the Claimant's absence and the reasons behind it.*
- 13.4 *The Respondent failing to follow the brigade's own policy guidelines with respect to the phased return to work,- this relates to paragraph 4.2 and 4.8 above*
- 13.5 *The time delay in all aspects since the Claimant's return to work –this relates to paragraphs 4.1, 4.2, 4.8, 4.9, 4.18 and 4.26 above.*
- 13.6 *The Respondent subjecting the Claimant to malicious PDPs – paragraph 4.23 above.*
- 13.7 *The Respondent in February 2018 offering the Claimant WM (A) positions at Eastern Command stations, including the stations that she had been both*

disciplined and suspended from, even it was highlighted in the remedy section of her first ET1 that she would not work in the Eastern command.

13.8 *GM Andy Worsam being deliberately obstructive behaviour towards the Claimant this relates to paragraph 4.18. GM Worsam also refused to engage with the Claimant on any level, he refused to directly respond to her emails or phone calls, and he complained about the Claimant paging him. GM Worsam refused to offer the Claimant a position on the Command Unit, which he said was due to budgetary constraints, and he continued to offer the Claimant positions in the North East area despite his knowledge of her working and personal history in that area.*

13.9 *SM Madeley telling the Claimant on or around 15 January 2018, that he was not going to allow her to deputise for him, with no reasons given.*

Second Claim

13.10 *From May to November 2018, Paul Cartwright, Keeley Foster, James Ryan and Robbie Robertson failed to accept the Claimant's recognised prior learning (RPL) gained whilst she was at Finchley.*

13.11 *Failure by SM Davidson to send a "welcome to the Borough" email to the Claimant in May 2018. He sent one to Mr Calcutt. Robbie Robertson accused the Claimant of leaving the station unsecured, even though he was there. He also informed the Claimant contrary to LFB Policy that SPL leave was unpaid.*

13.12 *Robbie Robertson/Mark Davidson made a spurious allegation to the effect that complaints had been received that the Claimant had been aggressive and abrupt during a telephone call with an employee from another department. Robbie Robertson issued the Claimant with a Letter 1 in relation to the allegation which the Claimant maintains is unfounded.*

13.13 *Over the period August 2018 until the Claimant went sick in February 2019, James Ryan required her to repeat work she had done. J Ryan also failed to sign the Claimant off as competent in 2018.*

13.14 *James Ryan failed to give sufficient notification to the Claimant of a formal assessment being conducted and the assessment was not diarised*

13.15 *James Ryan failed to follow the PRO procedure in relation to the basement incident in November 2018. He also undermined the Claimant's position with regard to the incident.*

13.16 *In December 2018, SC Ryan accused the Claimant of falsifying her fares claim. SC Ryan scrutinised the Claimant's fares when he had not scrutinised the fares of other officers. SC Ryan ordered the Claimant to repay the fares, but the claims of the Claimant's male counterparts had been paid out to them. The Claimant asserts that it was common practice for officers to use petty cash for fares, but SC Ryan would not permit the Claimant to do this, whereas the Claimant's male counterparts were allowed to use petty cash for fares.*

- 13.17 *M Davidson and J Ryan failed to consult the Claimant in relation to FF Shaw when the Claimant was her line manager in December 2018.*
- ~~13.18 *The tone and content of emails that SC Ryan sent to the Claimant during the period August to December 2018 were less friendly than emails he sent to the Claimant's male counterparts – (example email from SC Ryan to WM Harris). Toby Kempton would not allow the Claimant to produce evidence about SC Ryan's emails during the interview on 5 April 2019. [Paragraph 25 ET1]*~~
- 13.19 *In December 2018, James Ryan alleged that the Claimant had handled the roll out of the new PPE badly.*
- 13.20 *The Claimant's request for a transfer was denied in December 2018 on the grounds that she could not be transferred whilst she was on development.*
- 13.21 *In December 2018, SM Davidson and SC Ryan refused the Claimant's request to work on the Command Unit (CU).*
- 13.22 *On 27 February 2019, SM Davidson behaved in a threatening manner towards the Claimant and used aggressive language, which the Claimant alleges forced her to commence a period of sickness absence. The Claimant relies on a hypothetical comparator.*

Third Claim

- 13.23 *During the Claimant's sickness absence from February to November 2019, Peter Wolfenden, (the Claimant's contact manager), suggested to Andy Hearn and Steve Leader that the Claimant work at Mill Hill or Hendon Fire station. This suggestion was rejected, which resulted in the Claimant's sickness absence being extended. The Claimant also asserts that she suffered a demotion as a result of the Role to Rank (R2R) process being implemented whilst she was on sick leave.*
- 13.24 *In April 2019, the Claimant attended a grievance hearing which was conducted by Toby Kempston. During the hearing, Toby Kempston was aggressive and obstructive towards the Claimant – specifically he refused to allow the Claimant to produce evidence, He continually interrupted the Claimant, he accused the Claimant of being rude, and he refused to listen to a voice recording the Claimant had made of a meeting between the Claimant and James Ryan. The Respondent also refused to hear the Claimant's grievance in relation the refund of her fares and Toby Kempston refused to discuss this issue during the hearing in April 2019.*
- 13.25 *The Respondent contrived and concocted spurious claims against the Claimant – in particular, Paul Gleeson issued a Letter 1 to the Claimant for making incorrect statements. This issue arose out of the Claimant's allegation about sub officers at Willesden being in possession of white Lids (Helmets). The Letter 1 was issued despite the Claimant having a photograph of Richard Calcutt's white helmet.*

- ~~13.26 In September 2019, the Claimant attended a grievance hearing with Alan Taylor. During the hearing, the HR adviser, Josie Durand suggested West Hampstead as a location for the Claimant's return to work. The Claimant asserts that this was an attempt by the Respondent to force the Claimant out of the organisation by placing her in a location that would cause her stress and anxiety, on the basis that the Station Manager at West Hampstead was a bully [Paragraph 12 ET1].~~
- ~~13.27 Sometime in April 2020, the Claimant booked off duty after a colleague committed suicide. After the Claimant had left, Keith Williams asked Mark McManus why the Claimant had not carried out training, and he then proceeded to complain about the Claimant [Paragraph 14 ET1]~~
- ~~13.28 The Claimant's attempt to book her scale A leave was met with hostility, confrontation and unwillingness from Steve Smith, Chloe Van Dop both were rude and obstreperous on the phone. They failed to assist the Claimant and asked her why she had contacted them directly [Paragraph 17 ET1].~~
- 13.29 James Ryan had failed to follow the policy/protocol with regard to the return of the Claimant's PPE kit/fire gear in order to make things as awkward as possible for the Claimant. The Claimant's fire gear and white helmet was then returned to Bristol so as to cause the Claimant extra inconvenience. When the Claimant went to retrieve her fire gear, she discovered that her radio, torch, centre punch, seatbelt cutter, lift keys, haz chem guide, personal line and other items had been stolen. The Claimant reported the missing items to Paul Gleeson sometime in February 2020, but the items were not replaced until June 2020. Prior to this, the Claimant had to work at operational incidents in dangerous situations without all of her PPE.
- 13.30 DAC Kavanagh insisted that the Claimant be kept on a nine day fortnight instead of permitting her to follow the watch when she was doing light duties, when he knew that this would disrupt her child care arrangements. The Claimant spoke to HR who agreed to grant her excused absence (EA) for the days that the Claimant's partner was on duty, but DAC Kavanagh told BC S Leader to delete the EAs that had been entered onto StARS. DAC Kavanagh also reneged on the arrangements agreed for the Claimant's return to work.
- 13.31 DAC Kavanagh insisted in January 2020 that the Claimant attend a PRC in relation to an incident that took place in October 2018, and he did this in order to cause her anxiety. The PRC was contrary to Policy 421 which states that a PRC must be conducted in a timely manner and that if the Incident Commander (IC) is to be unavailable for a lengthy period, a written submission could be made. The PRC was conducted by Andy Kane who issued the Claimant with a PDP in an attempt to make it look as if the Claimant performed badly on the fireground.
- 13.32 DAC Kavanagh attempted to place the Claimant on a watch that conflicted with her partner's shift patterns which made childcare impossible. After the Claimant filed a grievance, Paul Gleeson informed the Claimant that she would be offered green watch at Hornsey, but this was further away from

the Claimant's home, it was not on her transfer list, and she had previously encountered bullying in the Borough of Haringey. The Claimant was told that the posting was temporary and that she would be allocated a permanent post when her appeal hearing was concluded. The Claimant was subsequently told that Hornsey would be her base posting.

- 13.33 *Joseph Kenny withheld the Claimant's helmet and invented further regulations to justify the decision to not provide the Claimant with a white helmet. The Claimant believes that she was entitled to retain her white helmet, because she was legacy protected.*
- 13.34 *On 8 May 2020, BC Ian Thompson on the instruction of Paul Kavanagh asked the Claimant to come into work when the Claimant was self-isolating. The Claimant's absence that day was categorised at UA (unauthorised absence) instead SI (self-isolating).*
- 14 *If so, was she subjected to this treatment because she had undertaken protected acts?*