



EMPLOYMENT TRIBUNALS

Claimant: Ms Leila Bahrami

Respondent: Active Learning Education Trust trading as UTC Reading

Heard at: Reading (by CVP video hearing)

On: 12-15 September 2022

Before: Employment Judge Skehan

Members: Mr F Wright

Ms F Potter

Appearances

For the Claimant: In person

For the Respondent: Mr Pettifer, Solicitor

JUDGMENT

1. The claimant's claims for direct discrimination, harassment, and victimisation contrary to Equality Act 2010 are unsuccessful and dismissed.

REASONS

1. The Judgment in this matter dismissing the claimant's claims was sent to the parties 20 October 2022. The Employment Tribunal's reasons were provided to the parties orally at the conclusion of the hearing on 15 September 2022. These written reasons are provided pursuant to the claimant's request.
2. The claimant issued proceedings in this matter on 17 July 2020. The claimant's claims included unfair dismissal and direct discrimination, harassment and victimisation. The claimant's ET1 referred to the protected characteristics of sex and/or race or religion. The claimant confirmed during the course of the litigation and at the commencement of the hearing that there was no claim relating to race. The claimant's unfair dismissal claim had been dismissed previously on withdrawal. The claim was defended. The claimant's claims as set out within her form ET1 are unclear. The issues to be determined by the tribunal were set out by EJ Gumbiti-Zimuto at a preliminary hearing on 14 June 2022. At the commencement of the hearing, the tribunal revisited this list of issues and it was agreed by both parties that this was a complete and exhaustive list of the issues to be determined by the tribunal. The issues are set out within the schedule attached to this Judgment.

The Evidence

3. As is not unusual in these cases the parties have referred in evidence to a wider range of issues than we deal with in our findings. Where we fail to deal with any issue raised by a party, or deal with it in the detail in which we heard, it is not an oversight or an omission but reflects the extent to which that point was of assistance. We only set out our principal findings of fact. We make findings on the balance of probability taking into account all witness evidence and considering its consistency or otherwise considered alongside the contemporaneous documents. This is a unanimous decision of the employment tribunal.
4. We heard from the claimant on her own behalf. We heard from the following witnesses for the respondent:
 - a. Mr Robert Bradley, director of computing at UTC Reading;
 - b. Neil Pouney, was at the time vice principal of UTC Reading, effectively the deputy headteacher of school.
 - c. Nitin Dongare, a previous supply teacher engaged by the respondent and former colleague of the claimant.
 - d. Monika Dongare, a teacher within the respondent and former colleague of the claimant.
 - e. Colin Fox, a teacher within the respondent and former colleague of the claimant.
 - f. David McArthur, a teacher at the respondent and former colleague of the claimant.
 - g. Jax Snipp, Head of School that the respondent who was at the relevant time the assistant principal of the respondent.
 - h. Kiran Kaur, head of human resources for the respondent.
5. All witnesses gave evidence under oath or affirmation. Their witness statements were adopted and accepted as evidence-in-chief. All witnesses were cross-examined.
6. The claimant was employed by the respondent from 1 July 2019 as a teacher of computing. The claimant also held the role of BTEC Quality Nominee that attracted further remuneration. The claimant describes this role as 'BTEC Quality Manager'. The appointment letter states inter alia, 'Reports to: senior leadership team. Staff managed (if any): no line management required but will work with engineering and computing staff. The claimant was successful within her role as BTEC Quality Nominee and her hard work is recognised and acknowledged within the documentation. The claimant was a hard-working teacher and put in long hours, as did many of her colleagues.
7. The claimant reported to Mr Bradley who was the director of computing within the respondent at the relevant time. The claimant was confused in her evidence as to whether she considered herself to have managerial responsibilities. The claimant told the tribunal that she had managerial responsibilities through her appointment as Quality Nominee. The claimant also repeatedly told the tribunal that she had no managerial responsibilities in relation to her colleagues. We note that within the documentation the claimant refers to herself as a manager. For example in the incident of 20

November 2019 set out below, the claimant refers to herself as 'a senior manager' helping Mr Dongare. Mr Dongare says that the claimant was not a manager. The claimant complains that her colleague had a lack of respect for the position as a manager. The claimant refers to herself as Mr Fox's manager within one of her grievance letters of 27 February 2020 and complains that Mr Fox does not recognise her as a manager. Mrs Dongare who is married to Mr Dongare states on 22 November 2019 that '.. [the claimant] has been very controlling to me from day one. Especially with me and [Mr Dongare] as we are new teachers..... [The claimant] behaves as if she is the manager of the department..... I have spoken to Robert and other teachers about her behaviour. All teachers in our department including [Mr Fox] and some other teachers had similar experience .' Mr Fox says that the claimant was not a manager and not in a position of authority. He states that it was not part of part of her role to go into Mr Dongare's classes to deal with disciplinary matters. The claimant writes within her grievance, '....my management role was not acknowledged by the team and Robert from the beginning of the year and I have been suffered with their lack of respect and behaviour every day...' Mr Bradley says that the claimant's references to her position as a senior manager were wrong and she was not a manager of any sort. This created a tension between the claimant and her colleagues, who considered the claimant to have no managerial responsibility. There is a theme running through the evidence that suggests the claimant sought to portray herself as a manager and 'rubbed her colleagues up the wrong way'.

8. We conclude that the claimant considered herself to have a managerial role within the respondent's organisation. The claimant produced and shared teaching materials amongst colleagues, motivated by what she considered to be managerial responsibilities. The claimant had responsibility within the computing department through her Quality Nominee role but no managerial authority. The claimant expected to be respected amongst her colleagues as a 'senior manager'. The claimant's colleagues did not consider the claimant had a managerial position. This created tension between the claimant and her colleagues.
9. This tension was increased by the claimant's direct approach. For example, on 11 December 2019 the claimant informed Mr Bradley that 'she could not work with', Mr Fox and that he was 'not fit for' the internal validation role that he carried out. The claimant was surprised by Mr Fox's response to her criticism of his professional abilities and his highlighting of errors said to be made on the claimant's part. The claimant cross-examined Mr Fox on the basis that 'they had always had a very good relationship and she was surprised by the 'hate' displayed in his email response'. Within her grievance of 27 February 2019, she states that she has received many complaints about computing teachers from the beginning of the year and informed Mr Bradley of them. The claimant repeatedly refers to providing resources for her colleagues and in particular the 'unqualified teachers'. Within her grievance of 27 February the claimant refers to supporting unqualified teachers with everyday resources and planning further classes. By unqualified teachers the claimant referred mainly to Mr Dongare and Mrs Dongare. While the claimant could choose to share our resources, the respondent considered that there was no requirement upon her to provide resources for Mr Dongare or Mrs Dongare or other unqualified colleagues. Ms Snipp says that the department was well resourced and both unqualified teachers had considerable real-world experience.

10. The claimant told the tribunal that initially she had a positive relationship with both Mr Dongare and Mrs Dongare to the extent she had discussed renting a property from them and potentially collaborating on an app outside of their school responsibilities. However, their relationship deteriorated as they continued to work together.
11. The claimant was obliged to teach a difficult year 13 group. This particular group of students were known within the school to be difficult and challenging. The claimant made no contemporaneous record of the behaviour complained of. It is likely, taking the entirety of the evidence into account that the pupils behaved largely as described by the claimant. They:
 - a. used inappropriate language including what the claimant describes as sexual comments although not particularized by her;
 - b. put on different accents during the claimant's class. The claimant believed, until parents evening in early December 2019 that one of the students was Scottish as he used a strong fake Scottish accent.
 - c. Disrupted the claimant's lessons and looked at the claimant outside of class in a manner described by the claimant as 'making hateful looks'.
12. The claimant complains that students were 'breaking computers in her room'. The claimant does not provide any information or evidence in relation to this allegation. Mr Bradley describes an incident that was intended by a pupil to be a 'joke' that was inappropriate but disputes there was any instance of any student 'breaking computers'. We find on the balance of probability that this aspect of the alleged student behaviour did not happen.
13. The claimant did not log bad behaviour in any way or contact parents in accordance with the normal practice of a class teacher. It can be seen from Mr Bradley's email of 5 November 2019 that the claimant complains that there was a culture of racism against ethnic minority teachers in the school from students and in particular some of her year 13 students. Mr Bradley escalated this concern to the management team within minutes of receiving it from the claimant. He concludes his email with, '... I obviously feel we have to take such comments seriously but what needs to be investigated/done next must be up to you...'
14. The claimant had regular weekly one-to-one support sessions with Mr Bradley. During the sessions the claimant initially told Mr Bradley when discussing behaviour issues and how to deal with them that she was a very experienced teacher and she did not require further support with dealing with disciplinary issues.
15. The claimant sought to raise issues with a parent at the parents' meeting on 5 December 2019. The claimant raised what she considered allegations of the a student stealing or damaging computer equipment with a parent and received an angry response from that parent. The claimant called Mr Bradley for support and subsequently complains that the parents were rude and unrespectful, saying, 'Rob please take care of this yourself as I had enough with the student'. Mr Bradley immediately escalated the claimant's request to the senior management team.
16. There is substantial evidence within the bundle that the students in question caused considerable disruption and issues for other teachers within the school not just the claimant. The student who used a fake Scottish accent

also did so in a Scottish teacher's class. Ms Snipp who had a school responsibility for behaviour details the issues faced by the school in particular in relation to the special educational needs of some of the pupils involved and, in some cases, a lack of support from the parents. However, the documentation shows that the respondent followed the normal steps of seeking to discuss matters with the students involved and involving parents as appropriate. We conclude that the respondent took all reasonable steps in relation to dealing with the behaviour issues raised by these pupils.

17. Mr Bradley also discussed issues raised by pupils with the pupils and shared issues raised by the pupils relating to the claimant's teaching with her, such as the pace of her lessons. While this information was shared, we conclude that it is incorrect and unfair to say that he supported the students and failed to support the claimant.
18. On 20 November 2019 there was an incident between the claimant and Mr Dongare. The claimant's email of 20 November 2019 records a 'verbal and physical insult'. The claimant said that she heard noise from his classroom and went to investigate. She found a student the claimant describes as, 'the best student in the class', sitting on a chair outside the classroom door with his laptop. The student told her that he had not done anything wrong. The claimant knocked on the door to speak with Mr Dongare. The claimant says that she was prevented from going into the room and shouted at along the lines of, 'I do not need your interfering in my lesson - go out'. The claimant tried to explain that she was trying to help but Mr Dongare shut the door in her face pushing her out of the classroom. He continued to reiterate, 'Do not interfere in my lesson.'
19. The claimant elaborates on this incident within her witness statement. She states that it was part of her job as a senior manager (quality nominee) to help Mr Dongare with disruptive students. The claimant complains of a physical and verbal attack by Mr Dongare shouting at the claimant and pushing the door hard on the claimant's body.
20. Mr Dongare's subsequent email of 21 November 2019 states that he had sent a student out of his class to reflect upon misbehaviour. He noticed the claimant trying to enter his classroom and went and opened the door for her. The claimant told him that the student shouldn't be out'. Mr Dongare considered that the claimant was questioning his teaching decisions without knowledge of the situation. He did not wish to have a discussion at that time with the claimant as he needed to attend to other students. Mr Dongare said that the door had a closing mechanism and he was required to keep pressure on the door to keep it open. Mr Dongare requested that the claimant not interfere and said he 'desperately needed to take control of my class'. He said to the claimant, 'can you please not interfere'. When he believed that the claimant was leaving as he had asked, he removed the pressure from the door and the closing mechanism worked to close the door. Mr Dongare realised that the claimant had her foot in the door and opened it again. The claimant removed her foot and he released the door and the door closed. Mr Dongare told the tribunal that he was not angry but that he was stressed. He said that the classroom during his conversation with the claimant had become noisy and his tone was appropriate to be heard by the claimant over the background noise. His priority was dealing with this class and did not wish to engage in any argument. Mr Dongare draws a distinction between help that is gratefully received and interference that neither needed nor requested.

21. Mrs Dongare, who was teaching next door, was also present during the incident. She records in her email of 22 November 2019 that the claimant tried to open Mr Dongare's door and it was opened for her by Mr Dongare. The claimant asked why the student was out and was asked by Mr Dongare, 'please do not interfere ' Mrs Dongare said that she saw the door closing as normal. She presumed Mr Dongare and had returned to his class.
22. Following this incident the claimant complained about Mr Dongare's behaviour and told the respondent that she could not work with him any more and Mr Dongare needed to apologise in front of the students. We note that the claimant also later requested that Mr Dongare not be dismissed.
23. Ms Snipp said that she considered that there was fault on both sides. The claimant had tried to enter Mr Dongare's classroom to question him, in front of the class, on why a student had been asked to sit outside. This was an undermining and professionally inappropriate action. The respondent also considered that the interaction between both teachers in view of the students was inappropriate. However there was a difference of treatment between the claimant and Mr Dongare. As the claimant was a permanent employee and Mr Dongare a supply teacher, Mr Dongare's relationship with the school was terminated. The respondent states that there was no complaint of assault at the time and should any complaint of assault have been made it would have been passed to the police.
24. While the decision was taken at senior management level to terminate Mr Dongare's relationship with the school. Ms Snipp said that she had discussions with the claimant and pointed out that there was fault on the claimant's part also. Had the claimant repeated her actions, further discussions would have taken place with her.
25. The claimant omits from her account of the incident that she commenced the interaction with Mr Dongare by questioning his decision to remove the pupil from his class, during a lesson without any knowledge of the background circumstances. The claimant, at the time, did not recognise and continues to fail to recognise that her attempt to enter Mr Dongare's class on 20 November 2019 and her questioning of the appropriateness of the pupil's removal from the class during a lesson was considered an unwelcome intrusion into her colleague's class. While there was an incident between the parties, we find that there was no pushing of a door into the claimant. While the volume of the conversation was likely to be loud, Mr Dongare was stressed, his class was noisy and this is likely to be reflected in his tone, we do not consider this was likely to constitute shouting at the claimant or verbal assault as alleged. We conclude on the basis of all of the available evidence that the claimant was not subject to a physical or verbal attack by Mr Dongare on 20 November 2019 as she has alleged.
26. Following this incident there was a severe deterioration in the relationship between the claimant and Mrs Dongare. Mrs Dongare maintained a professional relationship with the claimant where required for the carrying out of their duties but otherwise generally avoided her. Mrs Dongare considered the claimant's complaint about her husband to be exaggerated and the trigger for him to lose his job. We were told by Mr Fox and Mr McArthur that they understood Mrs Dongare's position and believed that she was anxious in her dealings with the claimant and chose to avoid her where she could. We conclude that Mrs Dongare avoided the claimant from this point forward

unless she was professionally obliged to have dealings with her. She was not criticised by her colleagues for her stance.

27. The respondent and Mr Bradley in particular sought to support both members of staff. He suggested to the claimant that a facilitated discussion may help rebuild the relationship. The claimant did not consider herself to be in any way at fault and did not wish to participate within a facilitated discussion. Mr Bradley considered that as long as both members of staff carried out their professional duties properly there was little he could reasonably do should Mrs Dongare wish to limit her interactions with the claimant.
28. The claimant complains that Mr Bradley sent Mr McArthur on a computing course without sending the claimant on such a course. Further, she complains that Mr Bradley prevented her from attending training on 20 February and insisted that Mr McArthur attend. The claimant's allegations in this respect are wrong. It can be seen from the correspondence that Mr Bradley has opened training opportunities to the claimant, who does not follow this up. Mr McArthur did not attend the training course on 20 February but Mr Bradley himself did so. The contemporaneous emails show that the claimant was signed off sick at that time and in any event and the claimant's attendance at this training course would be viewed in a positive light by Mr Bradley.
29. We note the claimant's allegation that her name was displayed in red font colour in Microsoft Teams communications. The claimant submitted a screenshot of a Microsoft teams message headed 'closure planning' dated 15 March 2020 where her name can be seen in red font colour. All other names appear in blue font colour. The respondent denies that it took any action to change the font colour of claimant's name within Microsoft Teams. It was put to the claimant that this was simply a Microsoft Teams feature probably reflecting the users status and not something that was added by design by any member of the respondent team. Mr McArthur gave evidence indicating that the colour of the username was not necessarily reflective of users status, but a feature of Microsoft Teams which, depending on the setting, displayed the user's name who was viewing the message in red font colour. Mr McArthur produced a further version of the closure planning email of 15 March 20 where his own name was highlighted in red font. He indicated that although the respondent was a computing department, this particular feature of Microsoft Teams had only been properly understood when the respondent conducted detailed research the previous evening. We find that the claimant's name being displayed in red type is likely to be a function of Microsoft Teams independent of the respondent's input.
30. The claimant's contract of employment contained an initial probationary period of six months. The claimant had an initial teaching assessment with Mr Bradley on 3 October 2019. During this assessments Mr Bradley noted positives about the claimant's approach and some areas for the claimant to improve including addressing the pace of her lessons and assessment for learning. It was envisaged that the claimant would have a further teaching assessment prior to the conclusion of her probationary period. This was not completed prior to the claimant's sick leave period between 20 January 2020 and 20 February 2020. There is no correspondence within the bundle relating to the extension of the claimant's probationary period however it is common ground that the probationary period had not been formally signed off by the respondent prior to the termination of the claimant's employment.
31. The claimant alleges that Mr Fox loudly and publicly discussed her probation period and the possibility of the termination of her employment in the staff

room. This is denied by Mr Fox. The claimant does not allege that she overheard this conversation nor does she provide any further evidence in respect of this allegation. We conclude that Mr Fox did not discuss the claimant's probation or the possibility of the termination of her employment in the staff room.

32. The claimant complains of a campaign of harassment against her by Mrs Dongare supported by Mr Fox. It is the case that the claimant experienced a less friendly workplace as her relationship with Mrs Dongare deteriorated, particularly after the incident of 20 November 2019 where Mr Dongare was dismissed. We note the email exchange between the claimant and Mr Fox of 2 December 2019 where the claimant had asked for compliance with outstanding issues that had been due on Friday 29 November and requested action 'by the end of today'. Mr Fox responded with a pointed email referring to the loss of a key member of the computing team, meaning Mr Dongare, referring to dramatic reverberations within the Department, a loss of focus and staff reeling from the after-effects. Ms Snipp told us that feelings were raw within the Department after Mr Dongare's departure but Mr Fox was told off because of that email.
33. The claimant complains that her prepared work was not delivered to students during her absence on sick leave by Mr Bradley. Mr Bradley was not the teacher delivering the lessons during the claimant's absence, the lessons were delivered by Mr McArthur. There is contemporaneous correspondence within the bundle showing Mr McArthur's concern in respect of lesson plans prepared by the claimant. Further, during Mr Arthur's cross examination the claimant said that she made no complaint in respect of his dealing with her lesson plans in her absence. Her complaint related only to Mr Bradley. We conclude that the respondent dealt appropriately and reasonably with the material produced by the claimant for the respondent's use during her absence on sick leave.
34. The claimant complains of a bossy email from Mr Bradley and refers to the email dated 13 February 2020. This email was sent in the context of the claimant submitting a sick note stating she was unfit to work yet seeking to work during her sick leave and confusion in respect of earlier interaction. Mr Bradley clearly said that that the claimant should not carry out any work in the circumstances. Mr Bradley's email is clear and to the point and it is reasonable to communicate in this way as the claimant's line manager.
35. The claimant complains that her computer was returned and email access was cut off from 20 March 2019 which was her agreed final day of work rather than extended to her final day of employment being 17 April 2020. 20 March 2019 was the commencement of the general coronavirus lockdown within the UK. The respondent explains that the claimant was not required to work remotely following 20 March 2019 and her computer and access were withdrawn at that time. The claimant made no complaint at that time and the respondent reasonably believed that the claimant was in agreement with this course of action. It is common ground and forms no part of this litigation that the claimant was not required to carry out duties following 20 March 2020.
36. The claimant complains about Mr Bradley's treatment of her in her first day back at school 24 February 2020 and the final day of employment being 20 March 2020. The claimant complains that Mr Bradley used an angry voice and failed to acknowledge her and turned his head away from her in an obvious manner. These allegations are denied by Mr Bradley. Mr Bradley said that he may have been more stringent with the claimant in his tone as there had been confusion on the claimant's part in respect of his instructions previously and we were referred to his email during her sick leave. He wished to be clear in

his discussions with the claimant. It is noted that the handwritten minutes of the claimant's return to work meeting of 27 February 2020 record that the claimant said '[Mr Bradley] has always been supportive'. Further it was accepted by the claimant that Mr Bradley had continuous one-to-one sessions with the claimant to offer support as he did all teachers. In the circumstances we find on the balance of probability that Mr Bradley did not behave as alleged by the claimant.

37. The claimant submitted three grievances to the respondent dated 27 February 2020. These related to:
- a. Mr Fox: in particular unprofessional and inappropriate emails blaming the claimant for the loss of Mr Dongare, Mr Fox's alleged inability to undertake his role, Mr Fox's alleged support of Mrs Dongare. Within this email the claimant refers to herself as Mr Fox's manager. The claimant complains that she had been harassed by Mrs Dongare and Mr Fox and no action has been taken. There is no direct or indirect reference to any treatment being related to any protected characteristic. There is no direct or indirect reference to any protected characteristic.
 - b. The incidence of 20 November 2019 and the claimant's subsequent deteriorating relationship with Mrs Dongare. The claimant complains that she has been treated as if she had done something wrong when she was the victim of the incident on 20 November.
 - c. Issues relating to her return to work and changes to her timetable, concerns in respect of access to training, unit planning.
38. The claimant tendered her resignation on 2 March 2020 and it was agreed that her final day of work would be 17 April 2020. While the claimant intended the grievances to be treated as 'formal grievances', she agreed with Ms Snipp that she was happy to resolve their grievances informally by way of a meeting that was subsequently held on 20 March 2020. This would allow the grievances to be resolved before her end date. Ms Snipp described a meeting as 'a good chat', that lasted approximately 1.5 hours. Ms Snipp recalled making a speech about the claimant in the staff room on her last day and the claimant making a warm speech. Ms Snipp recalls the claimant smiling and had believed that the claimant left the respondent on good terms.
39. Around the time of the claimant's resignation the UK was experiencing increased levels of coronavirus and the country went into lockdown on 20 March 2020. The government introduced a furlough scheme shortly thereafter. The claimant requested that the respondent extend her employment and place her on furlough leave. The respondent considered this request but considered that as the claimant salary was paid by the public purse, it would be inappropriate to continue to employ the claimant and place her on furlough leave. The claimant's request for furlough was refused on this basis.
40. While the claimant made initial complaints linking students actions to her protected characteristics, at no time throughout the claimant's employment or indeed within her lengthy exit interview with Ms Snipp did the claimant make any reference to or allegation of any negative act on the part of her colleagues that related to her sex, race or religion. The claimant has produced no evidence to link any of her allegations to her sex and or religion. Her position is that there is no other reason for the treatment she received.

The Law,

Direct discrimination

41. The claimant has brought a claim for direct discrimination on the grounds of her protected characteristic being her sex and, separately, her religion or belief. S13 of the Equality Act 2010 (EQA) provides that an employer discriminates against an employee if because of the protected characteristic it treats the employee less favourably than a comparator.
42. To establish a claim of direct discrimination, the claimant must show that she has been treated less favourably in some way than a real or hypothetical comparator. Section 23(1) of the EQA provides that there must be no material difference between the circumstances of the claimant and the comparator. The tribunal must ensure that it is comparing like with like, except for the protected characteristic. We look at sex and religion or belief separately in respect of each claim.
43. The burden of proof provisions in the EQA 2010 are set out in *section 136(2) and (3)*. This is effectively a 2 stage approach: Stage 1: can the claimant show a prima facie case? If no, the claim fails. If yes, the burden shifts to the Respondent. Stage 2: is the Respondent's explanation sufficient to show that it did not discriminate?
44. The claimant raises issues of harassment that are pleaded in the alternative as direct discrimination. We note section 212(1) of the EqA 2010 providing that harassment and direct discrimination claims are mutually exclusive.

Harassment

45. Section 26 of the EQA 2010 sets out the definition of harassment as conduct related to the protected characteristic which has the purpose or effect of violating the claimant's dignity or creating an intimidating hostile degrading humiliating or offensive environment for the claimant. In deciding whether the conduct has this effect, the tribunal will take into account the perception of the claimant the other circumstances of the case and whether it is reasonable for the conduct to have had that effect.

Victimisation

46. Section 27 of the EQA deals with victimisation. An employer victimises an employee if the employer subjects that employee to a detriment because the employee does a protected act or because the employer believes that the employee had done or may do a protected act. Section 27 sets out the meaning of the expression 'protected act' being: bringing proceedings under the EQA, giving evidence of information in connection with proceedings under the EQA, doing any other thing for the purposes of or in connection with the Equality Act making an allegation (whether or not express) that the employer or any other person has contravened the EQA.
47. The relevant statutory limitation provisions are set out in sections 123(1)(a) & (b) of the EQA 2010. Claims must be brought to the attention of the tribunal within three months starting on the date of the act to which the complaint relates or such other period as the employment tribunal thinks just and equitable. The time limit is subject to the permissible extension through ACAS early conciliation.

Deliberations and conclusions

48. On a general level, we consider that all witnesses have been helpful in their approach to the tribunal and the tribunal is grateful for their assistance. We have made no finding that any witness within the proceedings has lied to or sought to mislead the tribunal. In significant areas we have not accepted the claimant's evidence but do not consider the claimant has lied in her evidence.

We consider that the claimant has exhibited an oversensitive manner within her professional relationships and dealings with others. The claimant has been shown to be quick to identify and allege disrespectful behaviour directed towards her. The claimant has been shown, particularly in relation to the incident of 20 November 2019, prone to exaggerate fault on the part of others and minimise her input into difficult situations. We do not minimise the hurt or upset experienced by the claimant over the past three years as she referred to within her submissions however we do not consider that to equate to well-founded allegations within this litigation.

49. The claimant's evidence and the basis of her cross-examination was at times unclear to the tribunal. In these instances we sought clarification from the claimant and we clarified matters. While the claimant's English is of a high standard, English is not her first language and indeed may be her fourth language. This is apparent within the claimant's phrasing and her choice of grammar which on occasion makes her difficult to understand. The claimant was asked why she alleges that any treatment she has experienced was either on the grounds of or related in any way to her sex and/or religion. The claimant's answer is that she does not know why she has been treated as she has but she is a female Muslim woman and concludes that can be the only reason.
50. The claimant's attitude to the link between her allegations and her sex and religion is most clearly seen in her allegations relating to her name being shown in red font on Microsoft Teams documents and the training complaints. The red font allegation is an obvious working of Microsoft Teams. The claimant has been provided with direct evidence from her former colleague Mr McArthur showing his name in red on the identified message. However, while confirming that no issue is taken with Mr McArthurs evidence, the claimant continued to maintain that this is treatment somehow related to or on the grounds of her sex/religion or belief. There is no evidence upon which to base her claim and persuasive evidence to suggest otherwise. Similarly, the claimant has seen contemporaneous emails dealing with the training matters, yet still peruses these allegations.
51. The claimant's claim appears to be built on the basis that events occurred and the claimant has the protected characteristics of being a woman of Muslim faith. Both of these protected characteristics were known to the claimant's colleagues when she commenced employment and enjoyed a positive relationship with all colleagues including in particular Mr Dongare and Mrs Dongare.
52. Harassment related to sex and religion (Equality Act 2010 section 26)
 - a. Mr Bradley took action to both highlight the claimant's concerns to more senior management and supported the claimant throughout her employment. It is incorrect to state that Mr Bradley 'failed to take any action and supported the students'.
 - b. The claimant was not, on 20 November 2019, subjected to physical and verbal attack by Nittin Dongare shouting at the claimant and pushing a door hard on to the claimant's body.
 - c. From 21 November 2019 until the end of the claimant's employment, it is the case that the claimant's relationship with Mrs Dongare deteriorated as set out above. Mrs Dongare generally avoided contact with the claimant where she could as set out above.

- d. Mr Bradley sought to support both the claimant and Ms Dongare. It is incorrect to state that Robert Bradley refused or failed to assist the claimant but supported Mrs Dongare.
 - e. While we have found a deterioration in the relationship between the claimant and Ms Dongare, there was no 'campaign' against the claimant and the claimant has not shown that from 20 November 2020 until the end of the claimant's employment Mr Fox, supported Mrs Dongare in her campaign against the claimant. Mr Fox's emails are noted above. They display annoyance with the claimant and raw feelings following the termination of Mr Dongare's position. Mr Fox did not 'loudly, publicly in the staff room discuss the claimant's probation stating that the respondent should terminate the claimant's employment'.
 - f. Mr Bradley was supportive of the claimant during her employment. It is incorrect to state that he refused or failed to assist the claimant as alleged. Mr Bradley sought to support all of the staff.
53. The conduct, to the extent it has been found above, was unwanted conduct on the claimant's part.
54. Did it relate to the claimant's sex or her religion or belief? We have carefully considered whether any of the conduct or treatment of the claimant may relate to the claimant sex. The claimant does not provide any basis for her claim other than an absence of any other potential reason. We have been provided with considerable evidence showing a breakdown of the claimant's working relationship with her colleagues for multiple reasons:
- a. The claimant considered herself to have managerial responsibilities and seniority over her colleagues. The colleagues did not consider the claimant to have such managerial responsibilities. This mismatch created a tension that played a significant part in the breakdown of relationships.
 - b. The claimant's direct criticism of her colleagues, combined with a perceived baseless claim of seniority 'rubbed her colleagues up the wrong way' and contributed to deteriorating relationships.
 - c. The respondent's decision to dismiss Mr Dongare following the incident between the claimant and Mr Dongare on 20 November 2021 created difficulties within the department. Mr Dongare lost his position, mainly due to his status as a supply teacher. The respondent considered that there was fault on both sides however this was not understood by the claimant. The reason for the deterioration in the working relationships following the incident was clearly related to the incident itself and the fact that Mr Dongare was dismissed, and legitimate questions within the minds of the claimant's colleagues as to the claimant's role in the incident. This was a difficult situation. There is nothing within the evidence that has been provided to this tribunal to suggest that either the incident or the resulting behaviour of any party has any link whatsoever to the claimant's sex or the claimant's religion or belief. The fact that the claimant initially as a Muslim woman had a good relationship with Niitin and Mrs Dongare would also suggest that the reason for any subsequent deterioration was not related to either the claimant's sex or religion. It is unsurprising that, given the claimant's role within this incident, her

subsequent relationship with Mrs Dongare deteriorated. It is unsurprising, given the way in which the incident unfolded that there was considerable sympathy for Mrs Dongare amongst her colleagues.

55. We have carefully considered the entirety of the evidence in this matter conclude that the respondent's treatment of the claimant was related to the circumstances set out above and not in any way related to her sex or her religion or belief.

56. In light of the above we conclude that the claimant's claim for unlawful harassment contrary to the EQA fails and we do not consider it further.

Direct sex discrimination / Direct religion or belief discrimination (Equality Act 2010 section 13)

57. Did the respondent do the following things:

- a. We repeat our findings as set out above in respect of the matters said to be both harassment and direct discrimination.
- b. We refer to our factual findings and conclude that Robert Bradley did not, from September 2019 until the end of the claimant's employment behave in the following manner:
 - i. treat the claimant unfairly.
 - ii. Send David McArthur on a computing course and not the claimant.
 - iii. Send the claimant "bossy emails" during her period of sick leave.
 - iv. Prevent the claimant from attending training on 20 February 2020 and insisted that David McArthur attend.
 - v. On 20 March 2020, the last day of school, turn his head away from the claimant in an obvious manner in front of other staff.
 - vi. On her first day back at school (24 February 2020?) in an angry voice shout at the claimant in a meeting with the Vice Principal.
 - vii. On 24 February 2020, in staff briefing fail to acknowledge the claimant on her return-to-work following surgery.
 - viii. Write the claimant's name in a red font colour in computing team announcements from 24 February 2020 until the end of the claimant's employment.
- c. Mr Bradley did:
 - i. Support students' complaint against the claimant, where he considered it appropriate to do so and brought matters raised with him by students to the attention of the claimant.
- d. While not directly attributable to Mr Bradley it is the case that the respondent:
 - i. Blocked the claimant's access to MS Teams and the school network from 20 March 2020 (the claimant's last day at work) until 17 April 2020 (the date the claimant's employment ended).

- ii. Extended the claimant's probation from December 2019.
- iii. Failed to give the claimant's planned lessons during her period of sick leave.

58. Was that less favourable treatment? When looking at this question we must identify a comparator. There must be no material difference between their circumstances and the claimant's. In each scenario the comparator will be in the same circumstances. The comparator will be a male teacher of other or no religion who (depending on the allegation considered):

- a. had had similar experience of troublesome pupils and responded in a similar manner to the claimant as detailed above.
- b. behaved in a similar manner to the claimant:
 - i. considered themselves to have managerial responsibilities over colleagues that were not recognised by those colleagues.
 - ii. played a part in an incident that resulted in the loss of a colleague's (and colleague's husband's) job.
- c. about whose classes students have made negative comments.
- d. was not required to work after the Covid lockdown and raised no issue in respect of the return of IT equipment or access to the school's networks.
- e. did not have a second teaching assessment as envisaged during their probationary period, prior to the expiry of the primary timeframe.
- f. Prepared teaching materials to be used during their absence that were criticized by colleagues covering the relevant classes.

59. We do not consider that David McArthur, Mrs Dongare, or Mr Fox are appropriate comparators as their circumstances are not materially the same as the claimant's. The claimant therefore relies on a hypothetical comparator with the above characteristics relating to the particular allegations.

60. Taking the entirety of the evidence into account we conclude that the claimant has not been treated less favourably than a hypothetical comparator in materially similar circumstances. Further, the claimant's treatment was unrelated to either her sex or religion or belief. We were unable to identify any prima facie case for direct discrimination or harassment and the burden does not pass to the respondent. However, in any event, the evidence produced by the respondent demonstrates credible reasons unrelated to any protected characteristic for the claimant's treatment as set out above.

Victimisation (Equality Act 2010 section 27)

- 61. Did the claimant do a protected act as follows: make a formal complaint about physical and verbal attack by Nittin Dongare on 20 November 2020?
- 62. The claimant made a complaint about the incident on 20 November 2020 as set out above. The claimant's email contained with the bundle makes no reference to the EQA in any direct or indirect way. It makes no direct or indirect reference to any protected characteristic. We conclude that the claimant did not do 'a protected act'. Therefore the victimisation claim must fail. For the sake of completeness we repeat our findings above in respect of

the reasons for the treatment experienced by the claimant. We do not consider this allegation further.

Summary

63.in light of our findings above, we conclude that the claimant claims are unsuccessful and dismissed.

64.I note that the request for written reasons was sent by the claimant on 3 November 2022 and received by me on 23 November 2022 and returned on 22 December 2022. This delay on my part was caused by both work commitments and a period of pre-planned holiday absence. I apologise to the parties for this delay.

Employment Judge Skehan

Date: 22 December 2022

Sent to the parties on: 23 December 22

For the Tribunal Office

Schedule – List of Issues

Harassment related to sex and religion (Equality Act 2010 section 26)

1. Did the respondent do the following things:
 - a. Despite the claimant making several reports to Robert Bradley, Director of Computing, that students, (i) used inappropriate language (sexual comments) during her lessons, (ii) put on different accents such as Scottish accents, to make it difficult for the claimant to understand them and made fun of her by laughing at her, (iii) disrupting the claimant's lessons, breaking computers in her room, (iv) "making hateful looks" at the claimant scaring her, Robert Bradley failed to take any action and supported the students. (October/November 2019 until the end of the claimant's employment).
 - b. On 20 November 2019 the claimant was subjected to physical and verbal attack by Nittin Dongare shouting at the claimant and pushing a door hard on to the claimant's body.
 - c. From 21 November 2019 until the end of the claimant's employment, Monika Dongare subjected the claimant to the following conduct; Ignored the claimant and refused to talk to her, refused to attend a group teaching session with the claimant on Wednesday afternoons, she would turn away from the claimant when she came across the claimant going about the school, talked about the claimant behind her back to students and staff; moving away from or out of rooms that the claimant entered, e.g., during a training session in January 2020 when asked by the trainer to sit next to the claimant she refused and left the room.
 - d. Robert Bradley refused or failed to assist the claimant when she raised the matters set out in [1.c] above and asked for help. Robert Bradley supported Monika Dongare.
 - e. From 20 November 2020 until the end of the claimant's employment Colin Fox, supported Monika Dongare in her campaign against the claimant, sent inappropriate and harassing emails to the claimant, and loudly, publicly in the staff room discussed the claimant's probation stating that the respondent should terminate the claimant's employment.
 - f. Robert Bradley refused or failed to assist the claimant when she raised the matters set out in [1 e] above and asked for help. Robert Bradley supported Colin Fox.
2. If so, was that unwanted conduct?
3. Did it relate to the claimant's sex?
4. Alternatively, did it relate to the claimant's religion or belief?
5. Did the conduct have the purpose of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant?

6. If not, did it have that effect? The Tribunal will take into account the claimant's perception, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.

Direct sex discrimination / Direct religion or belief discrimination (Equality Act 2010 section 13)

7. Did the respondent do the following things:

- a. The matters set out in paragraph [1] are repeated here.
- b. Robert Bradley from September 2019 until the end of the claimant's employment behaved in the following manner:
 - i. Treated the claimant unfairly.
 - ii. Supported students' complaint against the claimant.
 - iii. Sent David [McArthur] on a computing course and not the claimant.
 - iv. Sent the claimant "bossy emails" during her period of sick leave.
 - v. Prevented the claimant from attending training on 20 February 2020 and insisted that David [McArthur] attend.
 - vi. On 20 March 2020, the last day of school, turned his head away from the claimant in an obvious manner in front of other staff.
 - vii. On her first day back at school (24 February 2020?) in an angry voice shouted at the claimant in a meeting with the Vice Principal.
 - viii. On 24 February 2020, in staff briefing failed to acknowledge the claimant on her return-to-work following surgery.
 - ix. Wrote the claimant's name in a red font colour in computing team announcements from 24 February 2020 until the end of the claimant's employment.
 - x. Blocked the claimant's access to MS Teams and the school network from 20 March 2020 (the claimant's last day at work) until 17 April 2020 (the date the claimant's employment ended).
 - xi. Extended the claimant's probation from December 2019.
 - xii. Failed to give any of the claimant's planned lessons during her period of sick leave.

8. Was that less favourable treatment?

9. The Tribunal will decide whether the claimant was treated worse than someone else was treated. There must be no material difference between their circumstances and the claimant's. If there was nobody in the same circumstances as the claimant, the Tribunal will decide whether s/he was treated worse than someone else would have been treated. The claimant says she was treated worse than David [, Monika Dongare, Colin Fox. The claimant may also be relying on a hypothetical comparator.

10. If so, was it because of sex?

11. Alternatively, was it because of religion or belief?

12. Did the respondent's treatment amount to a detriment?

Victimisation (Equality Act 2010 section 27)

13. Did the claimant do a protected act as follows: make a formal complaint about physical and verbal attack by Nittin Dongare on 20 November 2020?

14. Did the respondent do the following things:

- a. Robert Bradley's conduct towards the claimant in the return-to-work meeting on 24 February 2020.
- b. Robert Bradley's conduct towards the claimant in the meeting on 27 February 2020 in the office with Jax Snipp.
- c. Robert Bradley's conduct towards the claimant as set out [above]
- d. By the conduct set out above cause the claimant to resign her employment with the respondent.

15. By doing so, did it subject the claimant to detriment?

16.24. If so, was it because the claimant did a protected act?