



EMPLOYMENT TRIBUNALS

Claimant: Ms N Sato-Rossberg

Respondent: SOAS University of London

Heard at: London Central

On: 18 – 22, 25 March 2024,
26 March 2024 (In Chambers)

Before: Employment Judge Brown

Members: Mr A Adolphus
Ms H Craik

Appearances

For the Claimant: Mr S Crawford, Counsel
For the Respondent: Ms C Casserley, Counsel

JUDGMENT

The unanimous judgment of the Tribunal is that:

The Respondent did not subject the Claimant to race discrimination, race harassment, victimisation, or protected disclosure detriment. The Claimant's claim is therefore dismissed.

REASONS

Preliminary

1. The Claimant presented this claim against the Respondent, her employer, on 2 June 2023.
2. Early conciliation started on 22 March 2023 and ended on 3 May 2023.
3. The List of Legal and Factual Issues in the claim had been agreed as follows:

Time Limits

1. Whether claim(s) in time – Equality Act 2010 Claims

- 1.1 *Were the discrimination and victimisation complaints made within the time limit in section 123 of the Equality Act 2010? The Tribunal will decide:*
- 1.1.1 *Was the claim made to the Tribunal within three months (plus early conciliation extension) of the act to which the complaint relates?*
- 1.1.2 *If not, was there conduct extending over a period?*
- 1.1.3 *If so, was the claim made to the Tribunal within three months (plus early conciliation extension) of the end of that period?*
- 1.1.4 *If not, were the claims made within a further period that the Tribunal thinks is just and equitable? The Tribunal will decide:*
- 1.1.4.1 *why were the complaints not made to the Tribunal in time?*
- 1.1.4.2 *is it just and equitable in all the circumstances to extend time?*

2. Whether claim(s) in time – Employment Rights Act 1996 Claims

- 2.1 *Was the claim brought within the time limit set by section 48(3)(a) of the Employment Rights Act 1996? This gives rise to the following sub-issues:*
- 2.1.1 *What was the date of the act/failure to act to which the complaint relates?*
- 2.1.2 *Did the act to which the complaint relates extend over a period? If so, what was the last day of that period?*
- 2.1.3 *Was the act/failure to act to which the complaint relates part of a series of similar acts/failures? If so, what was the date of the last of those acts/failures?*
- 2.1.4 *Insofar as the complaint relates to a deliberate failure to act, when did the Respondent decide on it?*
- 2.2 *If not, was it reasonably practicable for the complaint to be presented within the time limit set by section 48(3)(a) of the Employment Rights Act 1996?*
- 2.3 *If not:*
- 2.3.1 *within what further period would it have been reasonable for the complaint to be presented?*
- 2.3.2 *was the complaint presented within that further period?*

Claim(s) under Equality Act 2010 s120

3. **Direct discrimination: Equality Act 2010 s13**

The Claimant alleges that the Respondent did the following things which constituted direct race discrimination:

- a) at a meeting on 11 August 2021 between the Claimant and Professor Ozanne, Professor Ozanne singled out the Claimant by asking her “why can only you not do this?”;*
- b) on 12 August 2021, Professor Ozanne set the Claimant another task just as she was about to start a period of annual leave deliberately to make the Claimant late in leaving work that day;*
- c) on 13 September 2021, in Professor Ozanne’s office, Professor Ozanne raised the subject of Japanese food and that her family likes this cuisine and that they eat sushi;*
- d) on 27 September 2021, Professor Ozanne sent an email to the Claimant criticising the Claimant’s automatic email response on the basis that it did not feel welcoming;*
- e) between 7 – 13 October 2021, Professor Ozanne placed the Claimant under a lot of unnecessary stress by changing the interview schedule for the role of lecturer in South Asian studies at short notice;*
- f) on 21 October 2021, Professor Ozanne accused the Claimant of not paying a related payment to a teaching fellow when she had and failed to apologise for her accusation which was made in front of others present at the meeting;*
- g) at a meeting on 28 October 2021 whilst discussing Equality, Diversity and Inclusion issues, the Claimant was interrupted and prevented from speaking by Professor Ozanne who stated sternly “Nana, we have no time for listening”*
- h) in November 2021, Professor Ozanne placed pressure on the Claimant to step back from her headship;*
- i) in December 2021, Professor Ozanne did not show any compassion towards the Claimant in relation to her uncle, her family situation, and his terminal illness;*
- j) in December 2021, Professor Ozanne corrected the Claimant’s use of English at a meeting in front of colleagues indicating that the correct phrase is “people of colour” rather than “non-white people” or “people in colour”;*
- k) in the period late September 2021 to early January 2022, Professor Ozanne in her role as the Claimant’s line manager increased her workload by asking her to undertake an NSS/TESEP plan and to agree and implement 19 action plans by herself by mid-December. Prof Ozanne threatened the Claimant if she failed to undertake the associated reports;*

- l) Prof Ozanne failed to show any compassion for the Claimant's consequential medical condition or to wish her well;*
- m) in February 2022, Professor Ozanne ignored that Claimant's request for her one-to-one meetings to take place with the Deputy Head and pressurised her into accepting that the one-to-one meetings take place with her;*
- n) on 11 March 2022, Professor Ozanne allowed Dr Wallach to take research leave which increased the Claimant's workload and, in the process, undermined her;*
- o) in March 2022, Professor Ozanne failed to support the Claimant's funded research project and increased her workload so that she could not work on research at all;*
- p) on 16 March 2022, Professor Ozanne made inaccurate notes of the risk assessment which were a misrepresentation of what happened and what was said. Professor Ozanne's notes made her look better. Professor Ozanne then refused to correct the note;*
- q) on 16 March 2022, Professor Ozanne criticised the Claimant within her role as Head of School stating to the Claimant something to the effect of: "You do not understand the role of the Head, and you should be responsible for that kind of work". However, the Claimant did not line manage professional services, so it was not part of her role or her responsibility;*
- r) On 16 March 2022 Prof Ozanne added an imaginary item to the risk assessment meeting notes which was never discussed;*
- s) in March 2022, Jo Bland made it clear that she did not wish to discuss the Claimant's grievance with the UCU Trade Union or any external parties and suggested that an investigation take place instead of an agreed mediation;*
- t) on 11 April 2022, Jo Bland raised her voice and accused the Claimant of being rude in talking at her behind her back and threatened to make a complaint about the Claimant;*
- u) between March 2022 and February 2023, the Respondent intentionally delayed the investigation into the Claimant's complaints, failed to appoint an appropriate person to conduct the investigation and failed to provide any evidence as part of the investigation outcome that there was no racial discrimination;*
- v) in September 2022, the Respondent's investigation into the Claimant's complaints deliberately disturbed the Claimant's contractual sabbatical;*
- w) in October 2022, at a fund-raising event Professor Ozanne walked over to the Claimant where she was part of a group of four and gazed at her to intimidate her as she walked towards her to intimidate her and cause distress;*
- x) on 14 February 2023, Jo Bland copied Professor Adam Habib into an email to the Claimant with no good reason;*

- y) *At the end of February 2023, the Claimant received the outcome of the investigation report which did not uphold the Claimant's complaints and advised that there was no evidence of racial discrimination. The outcome report failed to produce any evidence to prove that Professor Ozanne and Jo Bland did not harass the Claimant and failed to follow internal processes.*
- z) *on 15 May 2023, Khadir Meer offered no explanation for the delay in the investigation.*

4. **Whether Claimant subjected to a relevant detriment**

- 4.1 *Did the Respondent do what is alleged to have been done at (a) – (z)?*

5. **Whether treatment was less favourable**

- 5.1 *In doing the acts complained of, did the Respondent treat the Claimant less favourably than it treated:*

5.1.1 *in relation to allegations (a) – (z): The hypothetical comparators that the Claimant is relying on are all Heads of School or Heads of Department and are white members of staff.*

- 5.2 *If so, was there any material difference between the circumstances relating to the Claimant and the above-named comparators?*

- 5.3 *In doing the acts complained of, did the Respondent treat the Claimant less favourably than it would have treated others in comparable circumstances?*

6. **Reason for less favourable treatment**

- 6.1 *If the Respondent treated the Claimant less favourably, was this because of the Claimant's race?*

7. **Harassment: Equality Act 2010 s26**

The Claimant alleges that the Respondent engaged in the following conduct which constituted harassment related to race:

- a) *on 13 September 2021, in Professor Ozanne's office Professor Ozanne raised the subject of Japanese food and that her family likes this cuisine and that they eat sushi;*
- b) *on 27 September 2021, Professor Ozanne sent an email to the Claimant criticising the Claimant's automatic email response on the basis that it did not feel welcoming;*
- c) *at a meeting on 28 October 2021 whilst discussing Equality, Diversity and Inclusion issues, the Claimant was interrupted and prevented from speaking by Professor Ozanne who stated sternly "Nana, we have no time for listening";*
- d) *in November 2021, Professor Ozanne placed pressure on the Claimant to step back from her headship;*

- e)** on 6 December 2021, at a stress risk assessment meeting Professor Ozanne pressurised the Claimant to say that they didn't have a problematic relationship;
- f)** in December 2021, Professor Ozanne corrected the Claimant's use of English at a meeting in front of colleagues indicating that the correct phrase is "people of colour" rather than "non-white people" or "people in colour";
- g)** during Christmas 2021, Professor Ozanne asked the Claimant to undertake tasks that were not necessary including writing up a report on teaching excellence and a student experience action plan;
- h)** in the period late September 2021 to early January 2022, Professor Ozanne in her role as the Claimant's line manager increased her workload by asking her to undertake an NSS/TESEP plan and to agree and implement 19 action plans by herself by mid-December. Prof Ozanne threatened the Claimant if she failed to undertake the associated reports.
- i)** on 11 March 2022, Professor Ozanne allowed Dr Wallach to take research leave which increased the Claimant's workload;
- j)** on 16 March 2022, Professor Ozanne made inaccurate notes of the risk assessment which were a misrepresentation of what happened and what was said;
- k)** on 16 March 2022, Professor Ozanne criticised the Claimant within her role as Head of School, stating to the Claimant that it was the nature of the role as Head, something to the effect of: "You do not understand the role of the Head, and you should be responsible for that kind of work". However, the Claimant did not line manage professional services, so it was not part of her role or her responsibility.
- l)** in April 2022, whilst the Claimant was on annual leave, Jo Bland send the Claimant an email about a non-urgent matter, called her mobile and left a voicemail;
- m)** on 11 April 2022, Jo Bland raised her voice and accused the Claimant of being rude in talking at her behind her back and threatened to make a complaint about the Claimant;
- n)** on 5 and 6 May 2022, Professor Ozanne emailed the Claimant about the Work Allocation Model which is not part of her role;
- o)** in October 2022, in October 2022, at a fund-raising event Professor Ozanne walked over to the Claimant where she was part of a group of four and gazed at her to intimidate her and cause distress; and
- p)** on 14 February 2023, Jo Bland copied Professor Adam Habib into an email to the Claimant with no good reason.

8. **Whether incidents/events complained of occurred**

8.1 *Did the Respondent do what is alleged to have been done at (a) – (p)?*

9. **Whether conduct related to race**

9.1 *Was the conduct in question related to the Claimant's race?*

10. **Whether conduct unwanted**

10.1 *Was the conduct in question unwanted?*

11. **Purpose/effect of conduct**

11.1 *Did the conduct in question have the purpose of violating the Claimant's dignity and/or creating an intimidating, hostile, degrading, humiliating or offensive environment for the Claimant?*

11.2 *Did the conduct in question have the effect of violating the Claimant's dignity and/or creating an intimidating, hostile, degrading, humiliating or offensive environment for the Claimant, taking into account: the Claimant's perception, the circumstances of the case, and whether it was reasonable for the conduct in question to have that effect?*

12. **Victimisation: Equality Act 2010 s27**

The Claimant alleges that the Respondent did the following things which constituted victimisation:

- a) an increased workload from Professor Ozanne from late September 2021 to early January 2022 and a failure by the Respondent to deal with the Claimant's workload as part of her phased return to work as per OH recommendations;*
- b) being humiliated in public by Professor Ozanne on 21 October 2021 where she accused the Claimant of not paying a related payment to a teaching fellow and whereby, she accused her of lying. This incident was carried out in front of Kahdir Meer and Jo Bland.*
- c) On 28 October 2021, whilst addressing the Academic Board the Claimant was rudely interrupted by Prof Ozanne who stated sternly 'Nana, we have no time for listening';*
- d) on 11 April 2022, Jo Bland raised her voice and accused the Claimant of being rude in talking at her behind her back and threatened to make a complaint about the Claimant;*
- e) an unacceptable delay in the investigation into the Claimant's complaints between March 2022 and February 2023 and a failure to provide all of the evidence mentioned in the investigation outcome; and*

- f) *the Respondent not upholding the Claimant's complaints against Professor Ozanne and Jo Bland and not accepting the Claimant's allegations of institutional racism.*

13. **Whether Claimant did a protected act**

13.1 *Did the Claimant make an allegation that someone had contravened the Equality Act 2010 or do any other thing for the purposes of or in connection with the Equality Act 2010? The Claimant relies upon the following allegations as amounting to protected acts:*

- *On 12 August 2021 when the Claimant complained verbally to Dr Awino Okech that she thought that she was being bullied. The Claimant expressed her concerns that Prof Ozanne treats her unfavourably and unfairly and is singled out because she is non-white;*
- *On 6 December 2021 the Claimant made a further protected disclosure to Prof Adam Habib. When the Claimant met him on 6 December 2021, she expressed her great concern about how Prof Ozanne treated the claimant unfairly. She also told him that Prof Ozanne added an incredible amount of workload onto the Claimant. She told him that Prof Ozanne does not care about her wellbeing, although this is part of her role. The Claimant told him that she believes that Prof Ozanne was racially biased against her;*
- *On 28 January 2022 the Claimant followed this up her verbal complaint to Prof Adam Habib when she informed him in writing in an email that she believed that Prof Ozanne was consciously bullying her and harassing her due to her race;*
- *On 22 February 2022 the Claimant explained to her union representative (UCU) Dr Kerem Nisancioglu how she was singled out and treated unfairly by Prof Claire Ozanne. The Claimant also told him that she exhibits racist microaggression attitude towards her;*
- *On 16 March 2022 the Claimant sent an email to Prof Ozanne where she stated ""I am really puzzled about the way you treat me as it seems very different from other HoDs. I hope this is not about the color of my skin, but sadly I cannot stop thinking about this possibility. I ask you nicely, could you please stop harassing me?";*
- *On 24 March 2022, the Claimant verbally told Jo Bland that she understood that Prof Ozanne treated her unfairly due to her race";*
- *On 22 June 2022, the Claimant raised her concerns verbally once again at the investigation meeting with Esther Maxwell;*
- *On 27 September 2022, the Claimant raised her concerns verbally with Kadhir Meer about the suitability of Esther Maxwell conducting the investigation. The Claimant told him that she believed that Esther*

Maxwell was not a specialist in racial discrimination. The Claimant also raised her concerns that the investigation at that point had already been delayed by five months;

- *On 8 May 2023, The Claimant told Prof Adam Habib during a telephone call that it was not acceptable to delay the process for one year and to not even apologise for it. Prof Habib explained that if HR apologises, this will be negative for a court case. Prof Habib further told the Claimant that HR informed him that all delays were caused by external issues (this appears to have referred to Easter). He also told the Claimant that, whether the person doing the investigation was the right lawyer or not, the investigation was done, and there was an outcome. The Claimant then told him that she would never give up as the way she was being treated was not right. He then changed his tone and said that he would not be able to respond now, so he would get back to the Claimant by Friday (12 May). The Claimant then told him that she would never give up as the way she was being treated was not right. He then changed his tone and said that he would not be able to respond now, so he would get back to the Claimant by Friday (12 May); and*
- *On 15 May 2023 the Claimant met with Khadir Meer because she was unhappy how the investigation had been carried out and the severe delays in dealing with it. At this meeting the Claimant told Khadir Meer that she had been damaged and he told her that she was not damaged.*

13.1.1 *Was the allegation, evidence and/or information false and made in bad faith?*

14. ***Whether Claimant subjected to a detriment***

14.1 *Did the Respondent do what is alleged to have been done at (a) – (f)?*

14.2 *Did the act complained of constitute a detriment to the Claimant?*

15. ***Reason for detrimental treatment***

15.1 *Did the Respondent subject the Claimant to a detriment because the Claimant had done a protected act or because the Respondent believed the Claimant had done or may do a protected act?*

16. ***Remedy – Equality Act Claims***

16.1 *Should the Tribunal make a recommendation that the Respondent take steps to reduce any adverse effect on the Claimant?*

16.2 *Is it just and equitable to award compensation?*

16.3 *Has the Claimant suffered any financial loss as a result of any discrimination?*

- 16.4 *Has the Claimant taken reasonable steps to mitigate any loss?*
- 16.5 *What amount of compensation would put the Claimant in the position she would have been in but for the contravention of the Equality Act 2010?*
- 16.6 *Should any award for injury to feelings/personal injury be made?*
- 16.7 *Was the Claimant guilty of contributory fault and, if so, to what extent should any compensation be reduced?*
- 16.8 *Is the ACAS Code of Practice applicable? Did the Claimant or Respondent unreasonably fail to comply with it? Should any award be increased/decreased on this basis?*
- 16.9 *Should interest be awarded?*

17. **Claim under Employment Rights Act 1996 Detriment: protected disclosure**

The Claimant alleges that the Respondent subjected her to a detriment, in contravention of section 47B of the Employment Rights Act 1996, by doing the following things:

- a) ~~an increased workload from Professor Ozanne from late September 2021 to early January 2022 and a failure by the Respondent to deal with the Claimant's workload as part of her phased return to work as per OH recommendations;~~*
- b) ~~being humiliated in public by Professor Ozanne on 21 October 2021 where she accused the Claimant of not paying a related payment to a teaching fellow and whereby, she accused her of lying. This incident was carried out in front of Kahdir Meer and Jo Bland;~~*
- c) on 11 April 2022, Jo Bland raised her voice and accused the Claimant of being rude in talking at her behind her back and threatened to make a complaint about the Claimant;*
- d) an unacceptable delay in the investigation into the Claimant's complaints between March 2022 and February 2023 and a failure to provide all of the evidence mentioned in the investigation outcome; and*
- e) the Respondent not upholding the Claimant's complaints against Professor Ozanne and Jo Bland and not accepting the Claimant's allegations of unconscious bias and institutional racism.*

18. **Whether detrimental acts occurred**

- 18.1 *Did the Respondent do what is alleged to have been done at (a) – (e)?*
- 18.2 *Was the Claimant subjected to a detriment by the acts complained of?*

19. **Whether Claimant made a qualifying disclosure**

19.1 *Did the Claimant disclose information? The Claimant relies upon the following alleged disclosures:*

- *On 28 January 2022 the Claimant followed this up her verbal complaint to Prof Adam Habib when she informed him again and in writing in an email that she believed that Prof Ozanne was consciously bullying her and harassing her due to her race;*

19.2 *Did the Claimant reasonably believe the information disclosed tended to show that the Respondent had failed, was failing or was likely to fail to comply with any legal obligation to which it was subject or deliberately conceal such failure?*

19.3 *Did the Claimant reasonably believe it was in the public interest to make the disclosure?*

20. **Whether qualifying disclosure was protected**

20.1 *Was the disclosure made in accordance with section 43C of the Employment Rights Act 1996? In particular:*

20.1.1 *Was the qualifying disclosure made to the Respondent or to any person falling within section 43C(1)(a), (1)(b) or (2).*

21. **Reason for treatment**

21.1 *If the Claimant made a protected disclosure, was this the reason for the treatment complained of?*

22. **Remedy**

22.1 *Is it just and equitable to award compensation?*

22.2 *What loss has the Claimant sustained in consequence of the treatment complained of?*

22.3 *Has the Claimant taken reasonable steps to mitigate her loss?*

22.4 *Should any award for injury to feelings/personal injury be made?*

22.5 *Was any qualifying disclosure made by the Claimant in good faith? If not, is it just and equitable to reduce any compensatory award and to what extent?*

22.6 *Did the Claimant cause or contribute to the treatment to which the complaint relates? If so, to what extent should any compensation be reduced?*

22.7 *Is the ACAS Code of Practice applicable? Did the Claimant or Respondent unreasonably fail to comply with it? Should any award be increased/decreased on this basis?*

4. At the start of the hearing, the Claimant made an application to amend her claim, to rely on her alleged protected acts on 8 and 15 May 2023 as allegations of detriment. The Tribunal did not allow the amendment, for reasons it gave orally at the time.
5. The Claimant relied on her Japanese national origin / ethnicity in her race discrimination and harassment complaints. She compared herself with a white hypothetical and actual comparators.
6. The Tribunal asked the parties to prepare a list of agreed and disputed facts in relation to each of the protected disclosures. Having undertaken that exercise, the Claimant confirmed that she relied on one alleged protected disclosure to Adam Habib on 28 January 2022.
7. The Tribunal heard evidence from the Claimant; from Oliver Urquhart Irvine, the Respondent's former Director of Library Services; and Kerem Nisancioglu, the Claimant's Trade Union representative. For the Respondent, it heard evidence from Claire Ozanne, who was the Claimant's line manager at the relevant times and the Respondent's Deputy Director and Provost; Jo Bland, the Respondent's Deputy HR Director - Policy & Reward; and Khadir Meer, the Respondent's Chief Operating Officer ('COO').
8. Both parties made submissions. The Tribunal reserved its judgment.
9. The Tribunal has not used relevant people's academic titles in this judgment, for simplicity. No disrespect is intended by this.

Relevant Facts

10. The Claimant has been employed by the Respondent since 2014. She was first employed as a Lecturer in Translation Studies and Japanese language. The Respondent, SOAS is a University in London.
11. In August 2019 the Claimant was appointed as Head of Department for the Respondent's School of Languages, Culture and Linguistics ("LCL"). Heads of Department tend to be established academics. They step out of their substantive academic roles to take on management and leadership responsibility for their Department, typically for a 4 -year period, before returning to their full-time academic role. They receive an allowance for the role and are given a one year sabbatical at the end of their term of office.
12. The job description for a Head of Department provides that they have responsibility for leading and managing their department, p567, including providing academic leadership, budget management and business planning and being responsible for the department's staff recruitment, development and workload. Heads of Department are also responsible for the Department's curriculum and for development of research activities, p577.
13. The Respondent undertook a restructuring exercise in Spring – Summer 2020, which it called "Transformation and Change."

14. In September 2020 Claire Ozanne was appointed as the Respondent's Deputy Director and Provost. Immediately before this role at SOAS, Ms Ozanne had been Vice-Provost at the University of Roehampton, London. Initially, Ms Ozanne's line manager at SOAS was Graham Upton, Interim Director. Adam Habib was appointed Director from January 2021.
15. As Deputy Director and Provost, Ms Ozanne was responsible for the line management of 11 Heads of Department ("HoDs") from September 2020 – July 2022. Ms Ozanne would typically meet with HoDs on a 1:1 basis every two weeks. She also attended a monthly meeting with HoDs and the Director and a twice-termly meeting with the HoDs.
16. The Claimant and Ms Ozanne first met in an online meeting on 16 September 2020.
17. The Claimant, Graham Upton and Jo Bland, Deputy HR Director, also met on 17 September 2020. Ms Bland's notes of the meeting recorded that the Claimant commented that she thought Ms Ozanne would "be biased because [the Claimant] was not British and was a woman and BAME" and that she thought Ms Ozanne "already had this bias", p132. The Claimant later explained that she didn't specifically anticipate that Ms Ozanne had bias towards her, but that she felt that non-BAME people have unconscious bias, p129. At the Tribunal, the Claimant confirmed that she believed this because she had experienced discrimination against her as an East Asian person in 2020, during the Covid pandemic.
18. On 13 October 2022 the Claimant emailed Khadir Meer in relation to her potential promotion saying, "... people like me, a non-white female, must constantly consider the possibility that they are treated unfairly because of gender or ethnicity...", p775.
19. On 14 November 2022, in an email to Esther Maxwell concerning the Claimant's grievance against Ms Ozanne, she said, "... when it's come to racial discrimination, SOAS should not put all the burden of proof on me. If CO [Claire Ozanne] cannot prove that she does not have any unconscious/conscious bias, my claim should be accepted. Since she is not anybody, but the Provost, who is supposed to be a role model. She must avoid even the impression of bias." P501.
20. The Claimant told the Tribunal that, in a meeting on 12 October 2020, Ms Ozanne commented to an attendee who had apologised for being slightly late, "Germans say sorry". Ms Ozanne denied this contention in cross examination – she said that this would have been her very first meeting with all HoDs, given the date, and that she would never have said something like this to people she did not know, at this time, at SOAS.
21. On balance, in the circumstances, the Tribunal preferred Ms Ozanne's evidence. It found her account more credible. It found that she did not say, "Germans say sorry."
22. In about February 2021 David Webster produced a report on the LCL's foundation year programme. The Claimant complained to Adam Habib and Andrea Cornwall that the report was not an accurate representation of the facts and said, "We feel that this is symptomatic of a wider problem that some SOAS colleagues treat LCL as 2nd

class. Some of us are also concerned that the remarks are coloured by unconscious or conscious bias against the Asian female Head.” P155.

23. At an academic board meeting on 10 February 2021, p939, 941, the academic board raised concerns around the language used in the report and inaccuracies, noting that the report had singled out the Claimant and LCL. The board asked that the Director of the Foundation College meet with academic board members to revise the report. A revised report, in which references to the LCL had been removed, was represented to June academic board meeting, p945.
24. The Claimant told the Tribunal that Ms Ozanne did not support her in relation to the David Webster report at the Academic Board. She said, “She did nothing, just ignored it.” The Tribunal noted that the Academic Board asked for the report to be revised, which was done to the Claimant’s satisfaction. The Tribunal considered that there was no evidence to support the Claimant’s assertion that Ms Ozanne “did nothing”. On the contrary, the Tribunal found that the Respondent promptly acknowledged the Claimant’s concerns at the Academic Board and took action to address them.
25. The LCL Department completed more incorrect and incomplete forms, which had to be revised, for the Finance and Human Resources Departments, compared to other Departments. Ms Ozanne raised this with the Claimant on a number of occasions. The Claimant told the Tribunal that Ms Ozanne asked her, both, why “only your department cannot do this,” and, “why only you cannot do this”.
26. The Claimant told the Tribunal of this, “She singled me out and needed to show me how to behave as a proper human... that I am someone who is not qualified. If I said such a thing to student or colleague they would file an official complaint... I always checked the forms with HR and finance and they always said they didn’t know why Claire said it was wrong, so I started to think it was something else.”
27. Ms Ozanne recalled having a number of conversations with the Claimant regarding the way the Director of Learning and Teaching in her team filled in quality assurance forms, which was incorrect and causing delay. She denied that she said, “why can only you not do this?” in an accusatory manner.
28. The Tribunal found that Ms Ozanne did discuss with the Claimant why her Department, in particular, was repeatedly submitting forms which were incorrectly completed. The Claimant may have interpreted this as an accusation against her. The Tribunal found Ms Ozanne to be a dispassionate and matter-of-fact witness and accepted her evidence that she did not say anything in an accusatory manner, but raised an objective problem with the Claimant’s department’s form-filling.
29. On 12 August 2021 Ms Ozanne emailed the Claimant asking her to meet her HR and Finance business partners to agree the terms of a contract for a colleague, Justin Watkins, based on the income from a potential donation. Ms Ozanne said that it was urgent, so if the Claimant could do so the next day, that would be best, p187. The Claimant was due to go on leave after 13 August. She discussed the potential contract with Ms Ozanne and with the business partners on 13 August. Ms Ozanne then asked her to finalise the terms of the contract and talk to Justin Watkins, p192 –

193. The Claimant then replied saying, "As you know, I will be on leave next week. Unfortunately, I therefore cannot meet with Justin next week, only in the week after this. It might have been easier if you could have asked me all that you wanted from me from the beginning. Then I could have prepared everything yesterday. May I ask you to please do so next time?"

30. The Claimant told the Tribunal that Ms Ozanne should have known the Claimant was about to go on leave and that it was therefore inappropriate for Ms Ozanne to have asked the Claimant to undertake these discussions about Justin Watkins' contract. She told the Tribunal, "... it is passive bullying because she knew I was going on leave."
31. At the time, Ms Ozanne replied saying, simply, "Thank you for noting you will meet with Justin the week after next." P192.
32. The Tribunal found that Ms Ozanne accepted that the Claimant was going on leave and could not speak to Mr Watkins until her return from leave. Ms Ozanne's actions were unexceptional and unobjectionable. The Tribunal considered that the Claimant's description of this as "passive bullying" was hyperbolic.
33. On 12 August 2021 the Claimant spoke to Dr Awino Okech, the Respondent's Associate Director for Equitability, about Ms Ozanne. She said she was having difficulties with Prof Ozanne as a line manager. The Claimant did not mention race discrimination and understood that Dr Awino Okech would keep their conversation confidential. Dr Awino Okech suggested that the Claimant speak directly with Prof Ozanne about her concerns.
34. On 13 September 2021 the Claimant was waiting near Ms Ozanne's office for a meeting with Adam Habib. Ms Ozanne noticed the Claimant and invited her to wait in Ms Ozanne's office, rather than the communal area. Ms Ozanne was not using her office at the time, but did come in, once or twice, between her other meetings. She engaged the Claimant in conversation, telling her about Japanese sushi restaurant near her home which her family enjoyed.
35. The Claimant took exception to this. She told the Tribunal, "She would not have said to a German person, "I like sausage". I have never tried to initiate a conversation . She anticipated that I like to talk about Japan. That is biased in the first place." In her witness statement she said, "If Prof Claire Ozanne wished to make conversation, we had many commonalities through our work and professional academic endeavour, but Prof Claire Ozanne chose to speak only about topics directly relevant to my race: the liking of Japanese food and that her family like it and eat sushi."
36. The Claimant denied that she was enthusiastic about Japanese culture and that she had been happy to discuss Japanese culture with Ms Ozanne on other occasions.
37. It was put to the Claimant that Ms Ozanne was attempting to make small talk and had, on another occasion, discussed the fact that Ms Ozanne's husband had worked in a Japanese Bank. The Claimant told the Tribunal, "It is not an appropriate conversation at 121 to talk about husband . We only had 30 minutes. I wanted to focus on staffing and difficult things."

38. Ms Ozanne told the Tribunal that she had had many discussions with the Claimant over the course of 18 months, on many different subjects, and this was one occasion on which she mentioned a sushi restaurant and her husband and son being keen on sushi.
39. The Tribunal found that Ms Ozanne spoke warmly about her local Japanese restaurant and her family's love of sushi. She did so, knowing that the Claimant was Japanese and believing that the Claimant would receive this positively. She was making small talk and trying to establish a point of shared interest. Ms Ozanne said nothing detrimental about Japan. This was one conversation of many, about many different subjects, which Ms Ozanne had with the Claimant over the course of 18 months.
40. During "welcome week" – or Freshers' week - at the start of the academic year in 2021, the Claimant had set an automatic email reply saying, amongst other things, "I am receiving a high volume of messages. My answer will be slow, apologies in advance. If your message is about enrollment and registration, please get in touch with: School Of Languages Cultures And Linguistics slcl@soas.ac.uk ...".
41. The Claimant was in work at the time. On 17 September 2021 Ms Ozanne emailed her saying, "Dear Nana, Please can you remove or modify your automated email response - this is very unwelcoming and sends a poor message to staff and students for the start of term." P205.
42. The Claimant compared Ms Ozanne's treatment of her in this regard to Ms Ozanne's failure to challenge David Webster, who had put an out of office response when he was away from work, p394H " I am away on leave until Thursday 13th October Please contact foundation@soas.ac.uk. Thanks, Dave."
43. The Tribunal accepted Ms Ozanne's evidence that, as she said at the time, she believed that the Claimant's automated response, during Freshers' week, was unwelcoming and set a poor tone for both students and staff at the start of term. The Tribunal did not accept the Claimant's contention that Ms Ozanne should have sent a similar message to all Heads of Department. It accepted Ms Ozanne's evidence that no other Head of Department had an automated email response that week and that it would have been heavy-handed to email all of them.
44. On 8 October 2021 the Claimant sent out interview slots for the role of lecturer in South Asian studies, p214, to take place on 20 October 2021, allowing 20 minutes for each interview.
45. On 11 October 2021, Ms Ozanne asked the Claimant to change the schedule to allow longer. She emailed the Claimant saying, The slots in my diary are for 20 mins eg 2.15-2.35. Academic interviews are normally given an hour slot and last about 50 mins including time for the candidates to ask questions," p223-4.
46. The Claimant accepted in evidence, that the reason Ms Ozanne wanted to change the interview times was that she thought that academic interviews should be an hour long, and not 20 minutes.

47. Rather than accepting Ms Ozanne's guidance, the Claimant continued to argue about the length of interviews over a number of emails.
48. The Tribunal accepted Ms Ozanne's evidence that interviewing a lecturer was an extremely important task, "... they can be with us for life if they stay. They are in front of students, do research, 20 minutes is not long enough."
49. The Tribunal found that Ms Ozanne insisted that the Claimant change the schedule because she believed, entirely reasonably, that an interview for a lecturer should be given a generous time allowance, and that a period of around an hour, rather than 20 minutes, should be allowed. It also found that Ms Ozanne responded to the Claimant promptly, within a few days of being sent the schedule, and more than a week before the interviews were due to take place.
50. All Heads of Department had been given training in business planning from external trainers, in advance of a new business planning process being introduced in February and March 2021. The Respondent's Heads of Finance and Human Resources and its Pro Director of Research, Teaching and Learning had also provided training to Heads of Department during September 2019. In addition, the Claimant had been given 10 coaching sessions by her previous line manager, Deborah Johnson.
51. On 3 August 2021 Ms Ozanne had asked the Claimant to produce an action plan for the LCL Department by 9 August 2021. The plan was to address 4 areas:
 - a. A plan for future programmes in LCL and for how current programmes would meet the guided curriculum;
 - b. Actions to address the poor student satisfaction scores;
 - c. A communication and engagement plan for LCL staff, including team meetings and other regular communications;
 - d. Engagement with key business processes including staff planning and development and quality assurance.
52. On 11 August Ms Ozanne met the Claimant. They agreed that the Claimant had produced a document which was not a plan, in that it described problems and issues in the LCL Department. They agreed that instead, the Claimant should set out, under bullet points, a set of objectives, actions, responsible individuals and a timeline for completion.
53. Ms Ozanne emailed the Claimant after the meeting, recording what that had discussed, which included talking through each of the bullet points and what was required by way of a plan, p197.
54. On 16 September 2021 the Claimant produced revised plans, including a NSS plan, promotions plan and programme plan, p658 – 674. She produced further revised plans on 19 October 2021 840 -842.

55. On 21 October 2021 the Claimant met with Ms Ozanne, Jo Bland and Khadir Meer, Chief Operating Officer, to discuss HR issues, p237. The Claimant told the Tribunal that, at that meeting, they discussed issues in relation to a colleague, DL, and Ms Ozanne suddenly accused her of not making payments to DL. She told the Tribunal that, when the Claimant confirmed that she had made the payments Ms Ozanne had responded, "Only you are saying so" and that, when Ms Ozanne realised that the Claimant was telling the truth, she merely said, "Ahhh," and failed to apologise.
56. Neither Ms Ozanne, Khadir Meer or Jo Bland recalled Ms Ozanne having said any of this. Mr Meer described Ms Ozanne as being "very professional and proper", and told the Tribunal that, if there had been any improper conduct at this meeting. "I'd have noted it" and "would have raised an eyebrow". He told the Tribunal that he would have classified the Claimant's description of the exchange as out of the ordinary and raising an eyebrow, if it took place, but that he did not recall it taking place.
57. Later on 21 October 2021, the Claimant sent Ms Ozanne some emails showing that she had approved relevant payments to DL, p682-3
58. The Tribunal found that the meeting discussed payments to DL, but that Ms Ozanne did not accuse the Claimant of not making payments, and she did not fail to apologise for having done so. None of the other attendees recalled this. The Tribunal considered that, on many other occasions, the Claimant mischaracterised Ms Ozanne's comments to her. It considered that it was likely that, on this occasion, the Claimant took exception to Ms Ozanne simply seeking to establish an audit trail of payments to DL.
59. At an 28 October 2021 an Academic Board meeting, the notes recorded the Board accepting the minutes for an Equality, Diversity and Inclusion (EDI) committee, p690 - 695. The Claimant told the Tribunal that , under "Any Other Business," the Claimant had attempted to address the meeting about "something important in relation to EDI". The Claimant could not recall what it was she had wanted to say. She told the Tribunal that she had been, "rudely interrupted by Prof Claire Ozanne who said sternly "Nana, we have no time for listening." The Claimant told the Tribunal that this caused her embarrassment and that some colleagues at the meeting asked her why Claire Ozanne had been so rude to her.
60. It was not in dispute that Adam Habib was the chair of this meeting, not Ms Ozanne. Ms Ozanne denied saying those words.
61. The Tribunal did not accept the Claimant's evidence regarding 28 October 2021 Academic Board meeting. She could not recall what Diversity issue she wanted to raise and she called no witnesses to support her assertion that others felt that Ms Ozanne had been rude. The minutes of the meeting did not support the Claimant's version of events.
62. On 2 November 2021 Ms Ozanne emailed the Claimant, setting out the chronology of the evolution of the Claimant's Plans for the CLC department. She recorded that the Claimant had provided versions of Plans on 9 August, 16 September and 19

October 2021. Of the Claimant's 19 October Plans, Ms Ozanne said that the Plans did not specify responsible individuals and had a very large number of objectives marked for completion by mid-December 2021, which was unlikely to be achievable, and the actions were still very general and needed to be much more specific.

63. Ms Ozanne said, "Given the time that had been taken to reach this point and the urgency for the need to implement wide ranging improvements, I formed the view that there was little to be gained from further discussion on the plan. You didn't make any specific response to these points and didn't ask any questions. I noted that if the improvements needed, and identified by you as being achievable by mid-December 2021, were not fully completed we would need to have a conversation about your role as HoD. I would need to consider whether you were fully meeting the requirements of the role and what remedial steps would need to be taken to improve your work performance because it is an important part of your role to ensure critical improvements are effected within the required timescales. This might involve you moving into a formal process of work performance management under the relevant School procedure." P241.
64. On 8 November 2021 Ms Ozanne emailed the Claimant, acknowledging receipt of a fourth version of her plans and noting that she had now included the individuals responsible, p242. She repeated her warning that, if the improvements identified for implementation by December 2021 were not implemented by then, she would have a discussion with the Claimant about the Claimant's role as Head of Department, p 242.
65. The Claimant sent an email to Ms Ozanne, p246, on 16 November 2021, asking for extended leave and working reduced hours. Ms Ozanne approved the leave through the electronic HR system.
66. The Claimant told the Tribunal that Ms Ozanne did not show any compassion towards the Claimant in relation to her uncle, her family situation, and his terminal illness; Ms Ozanne told the Tribunal that she discussed the Claimant's leave request in person with her, said that she was sorry, and told the Claimant that, if she needed any support, she should let her know.
67. Later, the Claimant informed Ms Ozanne that she would be unable to take the requested leave. Ms Ozanne replied on 16 December 2021, starting her email by saying, "I am so sorry that you have had to change your travel plans this must be both frustrating and a worry for you." p281.
68. The Tribunal accepted Ms Ozanne's evidence that she discussed the Claimant's original request in person; and sympathised with her. The Tribunal noted that Ms Ozanne expressed appropriate empathy in her later email of 16 December. The Tribunal considered that Ms Ozanne was likely to have been equally supportive when the Claimant had originally sought her leave and explained her family circumstances. It noted that Ms Ozanne had granted the Claimant's request for leave without demur, which was consistent with a sympathetic attitude.

69. The Claimant told the Tribunal that, on 6 December 2021, at a stress risk assessment meeting, Ms Ozanne pressurised the Claimant to say that they did not have a problematic relationship, when, in fact, they did.
70. The 6 December meeting referred back to her previous risk assessment, completed by Ms Ozanne in October 2020, p149. One of the stress risk factors was said to be “Relationships”.
71. Ms Ozanne sent notes of the meeting p283. Under “Relationships” she recorded, “You noted that this related to past relationships not current ones.” The Claimant corrected the notes at in the notes, p281, by saying, “Factor 4: when I had this risk assessment in October 2021 , you were not my line-manager. It cannot be you. This is what I said.”
72. The Tribunal considered that on an objective reading, the Claimant confirmed, in her correction, that the stressor, “Relationships”, did not refer to Ms Ozanne, but a previous employment relationship. There was no suggestion, in this contemporaneous email, that the Claimant believed that Ms Ozanne had pressurised her to say that their relationship was not problematic.
73. On 6 or 7 December 2021 the Claimant spoke to Professor Adam Habib and raised concerns about Ms Ozanne treating the claimant unfairly. She told him that Ms Ozanne had increased the Claimant’s workload and did not care about her wellbeing. The Claimant told him that she believed that Ms Ozanne was racially biased against her. Mr Habib told the Claimant to leave it with him.
74. On 14 December 2021 Rachel Harrison, a cultural studies teacher, was challenged by a prospective student for being a white teacher in charge of the Cultural Studies program. Ms Ozanne expressed her support Ms Harrison, p 271 – 273. At the Tribunal, the Claimant contrasted Ms Ozanne’s support for Ms Harrison with Ms Ozanne’s failure to take action in relation to the Claimant being abused in the street, away from work, during covid.
75. The Claimant told the Tribunal that, in a meeting on 15 December 2021, Ms Ozanne, “indicated that the correct wording was “people of colour”” rather than “non-white people” or “people in colour””. The Claimant told the Tribunal that the Claimant had been speaking about another person who was not white, when Ms Ozanne did this.
76. The Tribunal accepted Ms Ozanne’s evidence that the Tribunal that the phrase “people of colour” was the accepted terminology used at SOAS at this time, in that students had said that they would prefer not to be described as “BAME”.
77. Ms Ozanne agreed that, had a colleague used phrases such as ‘non-white people’ or ‘people in colour’ in her presence, she may have directed them to the appropriate and accepted term. However, she told the Tribunal that she would not have corrected them with a view to embarrassing them, nor would she have corrected the Claimant’s use of English.
78. The Tribunal found that Ms Ozanne may have referred to the preferred terminology at SOAS being “people of colour”. The Tribunal noted that the Claimant did not give

details of how Ms Ozanne had “indicated that the correct wording was “people of colour”. It noted that, on the Claimant’s case, the Claimant had been talking about a third person, when she used her descriptor – she had not been referring to herself. The Tribunal accepted that Ms Ozanne’s intention was to respect the expressed wishes of students and others at SOAS regarding how they wished to be described. The Tribunal considered that it may well be appropriate for a manager to guide their staff member to respect other people’s preferred descriptors. That honours the third person’s preference and protects the staff member from unintentionally giving offence.

79. On 10 January 2022 the Claimant emailed Ms Ozanne saying, I have neck, shoulder, and arm pain, and also have severe headache. Therefore, I will take sick leave today and tomorrow.” P289. Ms Ozanne responded within an hour saying, “I am very sorry to hear this. Let me know if there is anything urgent that I can pick up for you.” The Tribunal considered that that was a compassionate and supportive response.
80. The Claimant was off work, sick, from 10 – 24 January 2022. She was referred to Occupational Health, who reported on 23 January 2022, p293. The report said, “... although I understand she has been referred due to musculoskeletal issues, she tells me that she has only just returned to work this week following a period of sickness absence related to anxiety and depression. She reports the triggers for this as a combination of work volumes, I understand she has been working long hours and she feels there are relationship issues with her manager. She expressed anxiety about their 1-2-1 meetings, as she feels unsupported and found these meetings tended to be a negative experience.”
81. The report advised, “She reports that although she is not feeling as resilient as she would normally be and has some anxiety with meeting with her manager she is fit to be at work with support.”
82. On 28 January 2022 the Claimant emailed Adam Habib, p296. In her email she said, amongst other things, that she believed that Ms Ozanne was bullying and harassing her. She said, “My therapist is concerned that if the work environment at SOAS remains the same this is risking my wellbeing. Especially, she is concerned about the damage caused by Claire already. To avoid further risks to my wellbeing, to create a safe work environment for me, and to allow me to perform more than 100% without being harassed, I am afraid I need to ask that Claire Ozanne is replaced by somebody else as my line-manager.” P297. She also said that Ms Ozanne, “ ... tries to suppress my voice, the voice of a woman of color.”
83. Ms Bland and Mr Meer denied knowing about the contents of this email before these proceedings. There was no evidence that they did know about this email at the relevant times.
84. On 1 February 2022 the Claimant told Ms Ozanne that she was postponing their 1-2-1 meeting because she was not fully recovered, p301. Ms Ozanne replied, expressing concern for the Claimant. She agreed to postpone the meeting for a week to allow the Claimant more time and said she wanted to support the Claimant, but said that that could not be by not meeting. Ms Ozanne said that they needed to

discuss a number of Departmental issues, including decasualisation and research leave, p301.

85. On 3 February the Claimant suggested that Ms Ozanne meet with Lutz, her Deputy Head of Department, instead, p304. Ms Ozanne had met with Lutz on 11 January 2022, p287, while the Claimant was off work, sick. However, at that 1-2-1 meeting, Lutz told Ms Ozanne that he didn't really know what was happening in the Department and was thinking of stepping down as Deputy Head of Department.
86. The Claimant and Ms Ozanne met to discuss the Claimant's OH report on 9 February 2022, p309. They agreed that the Claimant would start a phased return to work from 8 February 2022 and a list of priority tasks for the Claimant's phased return, p309.
87. On 10 February 2022, p310, the Claimant again suggested that Ms Ozanne meet with Lutz. Ms Ozanne replied, saying that it was not tenable for the Claimant and she not to meet, and suggesting that they meet together with Jo Bland from HR, p322.
88. The Tribunal accepted Ms Ozanne's evidence that she considered that it was not appropriate for her to meet Lutz instead of the Claimant, because the Claimant was HoD, was fit to attend work and it was necessary for the Claimant and Ms Ozanne to meet to ensure proper oversight of her Department. It accepted her evidence that Lutz was not a suitable substitute, given the unsatisfactory nature of their meeting on 11 January 2022. The Tribunal noted that the OH report had recorded strains in the Claimant and Ms Ozanne's relationship and in their 1-2-1 meetings, but had not advised that their 1-2-1 meetings should stop. The Tribunal observed that it would be difficult for a manager to manage and support a phased return to work without meeting the returning employee on a reasonably regular basis.
89. In February 2022 the Claimant told her union representative (UCU) Kerem Nisancioglu, in confidence, that she had been singled out and treated unfairly by Ms Ozanne, who, she said exhibited "racist microaggression" towards her. Mr Nisancioglu advised that she seek mediation. He did not tell others of this discussion.
90. The Claimant had rejected an application for research leave from Yair Wallach, a Senior Lecturer, because Mr Wallach had not arranged teaching cover for his leave period. On 28 January 2022, Mr Wallach appealed to Ms Ozanne, contending the Claimant's decision had been unreasonable, partly because this was the third occasion on which he had been denied permission for his research leave and he had taught 4 additional terms beyond the normal eligibility requirement, p330. He asked for a decision to be made at a higher level than Head of Department.
91. On 10 March 2022 Ms Ozanne asked Andrea Cornwall, Pro Director, to review Mr Wallach's appeal "in the light of precedent at SOAS and provide me with a recommendation" p330. Ms Ozanne did not inform the Claimant that an appeal had been made or that she had referred it to Andrea Cornwall. There was no formal appeal process in SOAS's procedures – the procedure advised that, in the case of disagreement, the Head of Department should discuss with the Pro-Director.

92. Andrea Cornwall advised that the appeal should be allowed, on the basis that Mr Wallach had been eligible for, but had been denied, research leave during the pandemic and SOAS had said that it would prioritise applications for research leave from people affected in this way. Ms Cornwall also commented that allowing Mr Wallach leave during Term 3 should be easier to accommodate than in Terms 1 or 2, because of the reduced teaching load, p1006.
93. On 11 March 2022 Ms Ozanne informed the Claimant and Mr Wallach of Ms Cornwall's decision to uphold Mr Wallach's appeal. She asked the Claimant to take the decision forward, p335. She did not inform the Claimant separately. The Claimant replied the same day, saying that Ms Ozanne had never helped the Claimant take time for research. She said, "You are happy to support other colleagues who are white and male, but not me. This could be understood as discrimination against Asian females." P333.
94. The Tribunal accepted that the Claimant's teaching workload may have been increased by Mr Wallach's absence, but noted that that was likely to have been in term 3, when students were more likely to be taking exams, rather than being taught.
95. On 14 December 2021 the Claimant had written to Ms Ozanne and Ms Cornwall asking for support in relation to completing a form regarding the policy impacts of her research, p 266 – 268. Ms Cornwall had replied the same day, commenting that the task that the Claimant was being asked to do would be likely to take around 2 hours. She offered to provide a member of her staff who was working on policy briefs, "... to look at your report and to create a policy brief from it, which we could also feature on the SOAS website. Or we could ask Alison's ICOP team to prepare a brief for you based on your report, which could also be used to send a briefing to Parliament on the findings." P266. The Claimant told the Tribunal that she was not provided with such a research assistant. However, the Tribunal also noted that she did not respond to Ms Cornwall's email.
96. Ms Ozanne, the Claimant and Naomi McNamee from HR met on 8 March 2022, p339. They agreed that the Claimant would return to work on a full time basis. The Claimant raised concerns about her workload and queried whether she should be required to provide input into the Workload Allocation Model ("WAMS").
97. SOAS Departments are required to provide information, including data on teaching and assessment load, administrative jobs and research time, to be input into the WAMS, to manage academic staff's workload. In practice, once workloads were agreed with academic staff, HoDs would delegate inputting the information to another member of their department, or department administration team. Ms Ozanne told the Claimant that, as HoD, she would retain responsibility for LCL's submission of the data, but that she was not required to input the data herself.
98. Ms Ozanne's note of the meeting recorded that she had offered to support the Claimant with prioritising her workload and that she would raise with HR whether administrative support could be provided for inputting LCL's data into the WAMS.

99. The Claimant disputed the accuracy of Ms Ozanne's note of the meeting, p339-340. Ms McNamee, who also attended, and was sent the notes, p336, did not suggest that they were inaccurate.
100. On the evidence, given that Ms McNamee did not dispute the accuracy of the notes, the Tribunal accepted Ms Ozanne's evidence that she did not remark, at this meeting, that the Claimant 'did not understand [her] role'. It found that Ms Ozanne's notes were accurate. It accepted that the Claimant misinterpreted Ms Ozanne's explanation of responsibilities in relation to WAMS data, in that, while the Claimant was able to delegate the inputting of data to her departmental team, as HoD the Claimant would retain responsibility for the submission of LCL's data. It also found that Ms Ozanne did offer the Claimant support in prioritising her workload.
101. Ms Ozanne later chased both the LCL and Economics departments for their incomplete WAMS data, p350. Ms Ozanne sent both the Claimant and Lutz an email on 5 May 2022, p352, asking that LCL complete their data entry.
102. Ms Ozanne forwarded to Jo Bland, Deputy HR Director - Policy & Reward, the Claimant's 11 March 2022 email raising possible discrimination against her as an Asian female. Ms Bland arranged to meet the Claimant on 15 March 2022, to discuss this, p344. During the meeting, the Claimant said that she did not believe Ms Ozanne managed her appropriately, that she was not comfortable meeting with Ms Ozanne, and that Ms Ozanne needed to 'change her attitude'. The Claimant also said that she would like a mediation to be arranged, to give Ms Ozanne an opportunity to 'reflect and change her attitude'.
103. Ms Ozanne agreed to mediation.
104. On 16 March 2022 the Claimant emailed Ms Ozanne, p337, querying the notes of their meeting on 8 March 2022 and saying, amongst other things,
- "Let me straight, you and I will go through the mediation. This is because our work relationship is not working. I wrote you clearly that our one-to-one meetings put my health at risk. ... Why don't you meet with Lutz (deputy head)? Could you please clarify? I am really puzzled about the way you treat me as it seems very different from other HoDs. I hope this is not about the color of my skin, but sadly I cannot stop thinking about this possibility. I ask you nicely, could you please stop harassing me?"
105. Immediately after receiving this email on 16 March, Ms Ozanne responded, copying in Ms Bland, saying that she was forwarding it to HR colleagues to look at the matter further, p337. It was clear that, on 16 March 2022, Ms Ozanne and Ms Bland knew that the Claimant had done a protected act by alleging race discrimination and harassment.
106. There was a dispute of fact about whether Ms Ozanne was told by Mr Habib, or anyone else, that the Claimant had alleged race discrimination against Ms Ozanne on 28 January 2022. Ms Ozanne strongly denied that she had been. The Tribunal noted that, as soon as the Claimant suggested to Ms Ozanne that Ms Ozanne was discriminating against her, Ms Ozanne copied HR into their correspondence and

referred the matter to HR to take forward. The Tribunal considered that her action in doing so showed that Ms Ozanne would have involved HR as soon as she was aware that an allegation of race discrimination was being made against her. The fact that she did not do so earlier than 16 March indicated that she was not aware that the Claimant had made similar allegations earlier, to Adam Habib.

107. Jo Bland arranged to meet the Claimant on 24 March, p338. At their 24 March 2022 meeting, the Claimant said that Ms Ozanne had treated her unfairly because of her race. She suggested that, in mediation, Ms Ozanne would have to reflect on her behaviour, that she was wrong, and apologise.
108. The Tribunal accepted Ms Bland's evidence that she did not consider that mediation was likely to be effective, in that the mediation process was unlikely to attribute blame as the Claimant believed.
109. Ms Bland told the Claimant that, given the depth of the Claimant's unhappiness, her allegations should be investigated, so that a finding could be made. She explained that the Claimant's expectations of mediation were not realistic and, given that she wanted Ms Ozanne to see 'the error of her ways', an investigation into the allegations the Claimant had made was a more appropriate procedure than mediation. She suggested, and the Claimant agreed, that an external investigator should be appointed.
110. The Tribunal accepted Ms Bland's evidence that she did not say to the Claimant that she should not to discuss her allegations with her Trade Union (UCU) or any external parties. It accepted that the Claimant's Union was not discussed and that, in any event, Ms Bland viewed unions favourably, having met UCU representatives regularly and, earlier in her career, having been a union representative herself.
111. By email of 30 March 2022, p343-4, the Claimant told Ms Bland that she wanted any investigation to run in parallel to a mediation. Ms Bland disagreed with this, believing that this would be difficult to make work in practice. She considered that any mediation process should take place after the completion of the external investigation. On 1 April 2022 the Claimant emailed Ms Bland again, saying that she would expect an update from her by 10 April, p343.
112. Both Ms Bland and the Claimant attended an Executive Board Meeting on 11 April 2022.
113. Following the meeting, the Claimant approached Ms Bland from behind, as Ms Bland was sitting down, in front of other HoDs and managers, and started a long and unpleasant complaint to Ms Bland about the progress of the investigation into her complaints, p347.
114. The Tribunal accepted Ms Bland's evidence that the Claimant's tone of voice was nasty and she rejected all placatory remarks and suggestions, by Ms Bland and a colleague, Becky McKenzie-Young, that they discuss her concerns in a less public environment. Eventually, Ms Bland told the Claimant that she would make a complaint about her conduct. The Tribunal accepted Ms Bland's account of this

meeting, rather than the Claimant's. The Tribunal found Ms Bland to be a measured and considered witness on this matter.

115. In April 2022, whilst the Claimant was on annual leave, Jo Bland send the Claimant an email, called her mobile and left a voicemail asking her for input into a paper on decasualisation. The Tribunal accepted Ms Bland's evidence that a decasualisation paper was being produced to a tight deadline, and that she asked for input from all HoDs. It accepted her evidence that the HoDs were the individuals in the Departments who held this information. Khadir Meer, the Respondent's COO, also emailed the HoDs to ask them to provide information on three elements within 24 hours, as the decasualisation paper was required to be provided to the Executive Board by the end of the week, p706. Ms Bland received out of office responses from the Claimant and Zoe Marriage, HoD for Development Studies, stating that they were both on annual leave.
116. Ms Bland subsequently received a substantive response from Ms Marriage. Having not received an answer from the Claimant, Ms Bland telephoned the Claimant.
117. The Tribunal found, on the facts, that all HoDs, including the Claimant, were asked to provide Departmental information to a tight deadline, to allow the decasualisation paper to be finalised so that it could be presented to the Executive Board. The Claimant was on annual leave, but the information was required urgently and, as HoD, the Claimant was the person in LCL Department who had the required information. The Claimant was asked to do exactly what the other HoDs were asked to do.
118. On 12 April 2022 Ms Bland emailed Esther Maxwell, a solicitor from Shakespeare Martineau, saying that she had received a bullying and harassment complaint from a Head of Department. She said that the Claimant, "... is insistent that we pursue mediation concurrently with the investigation and if you have 10 mins over the next two days I would like to discuss this with you. It does not seem a suitable way forward in all the circumstances. I would propose investigation first and mediation afterwards." P707
119. Afterwards, on 12 April 2022, Ms Bland emailed the Claimant replying to her emails of 30 March and 1 April and saying that her complaints of bullying and harassment had been referred to an investigator, p347. She said that the Claimant's conduct in raising the matter at the Executive Board meeting had been inappropriate.
120. The Claimant replied saying that if Ms Bland "would have acknowledged [her] emails in the first place, none of this would have happened" p346.
121. Dr Kerem Nisancioglu, the Claimant's union representative, told the Tribunal that he was aware of delays to grievances at SOAS and that he would have advised mediation, if he had known of the Claimant's complaints. He told the Tribunal that the investigation process Ms Bland suggested to the Claimant was not within any of the grievance or harassment processes at SOAS. He said that he became aware, later, that the Claimant did not wish to pursue a formal grievance process. The Tribunal accepted all his evidence on this.

122. On 25 April 2022 the Claimant emailed Ms Bland, asking how the mediation and investigation were progressing, p716. She asked for a timeline, amongst other things, and said that it was affecting her health and performance, p716.
123. On 2 May 2022, Ms Bland emailed the Claimant, telling her that Esther Maxwell, would be undertaking the investigation. She said that she would expect the investigation stage to be concluded within two months of the first interview, p715.
124. Ms Bland told the Tribunal that she was inundated with work during 2022. In December 2021, she had taken on responsibility for health and safety at SOAS. In 2022, major issues regarding health and safety were identified, requiring the commissioning of a major review of health and safety compliance. Both the Head and Deputy Head of Estates left the Respondent. Ms Bland had to conduct all interviews for the health and safety review and accompany the people carrying out the review, and to take responsibility for all the relevant plans, documents and policies. SOAS also had a student occupation in February 2022, which necessitated Ms Bland attending meetings every day and at weekends. There were a number of industrial action days. These responsibilities came on top of Ms Bland's normal responsibilities regarding convening and preparing papers for Board meetings, Ms Bland's sole member of support staff went off sick and then left in July 2022. The Tribunal accepted her evidence that all those things were exceptional and added to an overwhelming workload.
125. On 5 and 6 May 2022, Ms Ozanne emailed the Claimant about the Work Allocation Model, p351 – 354. The Economics Department was asked to provide the same information, p350.
126. On 16 May 2022 the Claimant chased Ms Bland for progress on the investigation and on 17 May 2022 Ms Bland responded, apologising for not arranging a meeting with Esther Maxwell and saying that Ms Maxwell had had family illness which had reduced her availability, p713.
127. Ms Bland was cross examined about this. It was put to her that she was misleading the Claimant by implying that Ms Maxwell had been instructed when she had not. The Tribunal accepted Ms Bland's evidence that she believed that she had instructed Ms Maxwell, because she had emailed her and spoken to her about the matter. Ms Maxwell was undertaking other investigations for SOAS at the same time.
128. On 20 May 2022 the Claimant asked Ms Bland to progress the investigation quickly, because the time taken for it was affecting her mental health, p733. She also raised many historical issues and concerns.
129. On 7 June 2022 the Claimant chased Ms Bland, saying that the proposed dates had already passed, p730.
130. On 13 June 2022 the Claimant contacted Ms Maxwell directly, expressing concern that Ms Maxwell may not have been instructed to investigate at all, and asking for a response, p722. She said that she had been told that HR had a long backlog.

131. The same day, Ms Maxwell forwarded the Claimant's email to Ms Bland, saying, "I know that we briefly spoke about this matter and you were going to send through to me the paperwork. We'd be happy to assist with the investigation if you would like us to." P722.
132. The Claimant chased Ms Bland again on 15 June, p729. Ms Bland replied, providing dates on which Ms Maxwell could meet the Claimant, p728.
133. Ms Bland sent Ms Maxwell paperwork for the investigation on 21 and 22 June 2022, when Ms Bland was away from work on holiday, p736-7.
134. Ms Bland told the Tribunal that she was working in the evenings and at weekends at this time because she was so overwhelmed by work. The Tribunal noted that this email corroborated Ms Bland's evidence that she was working exceptionally hard – she was working even when she was on holiday.
135. The Investigation meeting with the Claimant took place on 22 June 2022, p422 - 430. On 29 July 2022 the Claimant sent Ms Maxwell more information and an updated timeline. Ms Maxwell had had covid in the interim, p450. P431.
136. The Claimant's timeline dated 18 July 2022 included complaints about Ms Bland discouraging her from speaking to her union representative, p439.
137. The Claimant stepped down as Head of Department on 31 July 2022. Rachel Harrison was appointed as Interim Head of Department in her place. The Claimant was due to commence research leave in September 2022.
138. Ms Maxwell drafted Terms of Reference for the investigation, having met with the Claimant, p767. She sent them to Ms Bland on 31 August, saying that she had asked the Claimant for clarification on some sections, p767. She advised Ms Bland that the Terms of Reference included complaints that HR had not supported the Claimant and that Ms Bland's name had been specifically mentioned, p767. She said that she would need to interview Ms Bland.
139. Ms Bland did not step aside from being Ms Maxwell's contact at the Respondent for the purposes of the investigation.
140. On 1 September 2022 the Claimant chased Ms Maxwell, saying she needed to hear from her with the Terms of Reference and a timeline soon. She said that her health was being affected, p449. Ms Bland approved the Terms of Reference on 6 September and Ms Maxwell sent the Terms of Reference to the Claimant that day, p770.
141. The Claimant responded, querying the nature of the investigation, p770.
142. Ms Maxwell had arranged a meeting with Ms Ozanne before 21 September, but this was moved.
143. On 27 September 2022 the Claimant met with the Khadir Meer, the Respondent's COO, and expressed concerns about how long the process had taken and saying

that she believed that Esther Maxwell was not the right person to conduct this type of investigation.

144. On 7 October 2022, Esther Maxwell provided further Terms of Reference to Ms Bland, p783.
145. The Claimant provided further information to Ms Maxwell on 31 October, p500.
146. The Claimant and Ms Ozanne both attended a fundraising event in October 2022. At one point, Ms Ozanne joined a group of attendees, which included the Claimant. There was a dispute of fact as to whether Ms Ozanne walked straight towards the Claimant before she did so, staring at her, to intimidate her, as she approached.
147. The Tribunal accepted Ms Ozanne's evidence that she did not. The Tribunal considered it highly unlikely that Ms Ozanne would have acted in a hostile manner towards any colleague at an event which was trying to raise funds for her organisation.
148. Also in October 2022, whilst her complaint was being investigated, the Respondent promoted the Claimant in her substantive academic role to the position of Professor in Translation Studies, p774. Ms Ozanne supported her promotion.
149. Ms Maxwell interviewed Ms Ozanne on 1 November 2022, p464.
150. Ms Ozanne knew, from about November 2022, that she would be leaving the Respondent university to take up a post at another university.
151. Ms Maxwell interviewed Ms Bland on 15 December 2022, p508. She sent the notes of the meeting to Ms Bland the next day, p788.
152. Ms Maxwell provided her report to SOAS on 3 February 2023, p513. The report was over 20 pages long and was detailed. Ms Maxwell set out the witness evidence and her findings in relation to each of the Claimant's complaints. Ms Maxwell did not uphold any of the Claimant's complaints of discrimination or bullying. In her conclusions she said, "... there is no evidence to support the allegation that CO bullied and harassed NSR, or that there is any evidence of discrimination on the grounds of race. What is clear from the evidence is that NSR was going through a stressful time - the aftermath of Transformation and Change, being a respondent in an employment tribunal case, being Head of a department that was not performing at the required level. Coupled with that, were issues in her personal life, namely the loss of her uncle, the bankruptcy of her sister, and the added concerns of being away from Japan during a pandemic. This has led to some emotional outbursts by NSR. I did not find evidence to support the allegation that JB and CO knowingly neglected NSR's multiple health issues. NSR was supported through OH and the stress risk assessment process and there is email evidence to show that both JB and CO were worried for NSR and that they discussed how best to support her. On balance, I could not see any evidence of a failure of duty of care towards NSR."
153. The report was not provided to the Claimant until 27 February, p816. Khadir Meer decided that the appendices to the report should not be provided to the Claimant. He

told the Tribunal that, in his experience, providing detailed appendices did not help colleagues to move on from an investigation process. He said, “ . I was trying to mediate an outcome in terms of moving forward. The ability of colleagues to get stuck into thousands of words and lose sight of moving forward is something I have observed.” The Tribunal accepted that this was what he genuinely believed.

154. Ms Bland included Adam Habib in her email correspondence with the Claimant on 14 February 2023, p396. She alerted the Claimant to the fact that she had been asked to do so. The Claimant had copied Khadir Meer into her own email sent to Ms Bland on 28 February, p397, in which she ask to be referred to as Professor Sato-Rossberg and addressed Ms Bland as “HR Deputy Director Bland”. Mr Meer considered that there was a general cultural issue at SOAS, in that there appeared to be ‘two tier system’ at the University, with academic staff interacting with professional services staff in a way that did not align with SOAS’s values. He had previously raised this with Mr Habib, who had asked Mr Meer to give him examples of it. Mr Meer therefore asked Ms Bland to copy Mr Habib into the Claimant’s email about using titles.
155. The Claimant complained to Adam Habib on 8 May about discrimination.
156. On 15 May 2023, Khadir Meer met with the Claimant to discuss the outcome of the report, p411-412. He told her that he was not able to provide an apology, nor compensation, given the investigation into her complaint had concluded that there was no evidence of Ms Ozanne bullying and harassing her. He told the Tribunal that he did not remember the issue of delay arising.

Relevant Law

Discrimination

157. By *s39(2) Equality Act 2010*, an employer must not discriminate against an employee by subjecting him to a detriment.

Direct Discrimination

158. Direct discrimination is defined in *s13(1) EqA 2010*:
“(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.”
159. Race is a protected characteristic, *s4 EqA 2010*.
160. In case of direct discrimination, on the comparison made between the employee and others, “there must be no material difference relating to each case,” *s23 Eq A 2010*.

Victimisation

161. By *27 EqA 2010*,
“(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.”

162. There is no requirement for comparison in the same or not materially different circumstances in the victimization provisions of the EqA 2010.

Causation

163. The ET must decide whether or not the alleged discriminator’s reason for the impugned action was the relevant protected characteristic. In *Chief Constable of West Yorkshire Police v Khan* [2001] IRLR 830, Lord Nicholls said that the phrase “by reason that” requires the ET to determine why the alleged discriminator acted as he did? What, consciously or unconsciously, was his reason?.” Para [29]. Lord Scott said that the real reason, the core reason, for the treatment must be identified, para [77].
164. However, if the Tribunal is satisfied that the protected characteristic is one of the reasons for the treatment, that is sufficient to establish discrimination. It need not be the only or even the main reason. It is sufficient that it had a significant influence, *per* Lord Nicholls in *Nagarajan v London Regional Transport* [1999] IRLR 572, 576. “Significant” means more than trivial, *Igen v Wong, Villalba v Merrill Lynch & Co Inc* [2006] IRLR 437, EAT.

Detriment

165. In order for a disadvantage to qualify as a “detriment”, it must arise in the employment field, in that ET must find that by reason of the act or acts complained of a reasonable worker would or might take the view that he had thereby been disadvantaged in the circumstances in which he had thereafter to work. An unjustified sense of grievance cannot amount to “detriment”. However, to establish a detriment, it is not necessary to demonstrate some physical or economic consequence, *Shamoon v Chief Constable of RUC* [2003] UKHL 11.

Harassment

166. s26 EqA provides,

“(1) A person (A) harasses another (B) if—

- (a) A engages in unwanted conduct related to a relevant protected characteristic, and
- (b) the conduct has the purpose or effect of—
 - (i) violating B's dignity, or

(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

.....

(4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account—

- (a) the perception of B;
- (b) the other circumstances of the case;
- (c) whether it is reasonable for the conduct to have that effect.”

167. In *Land Registry v Grant* [2011] IRLR 748 at [47] Elias LJ said that words of the statutory definition of harassment, “.. are an important control to prevent trivial acts causing minor upsets being caught by the definition of harassment.” In *GMBU v Henderson* [2015] 451 at [99], Simler J said, “..although isolated acts may be regarded as harassment, they must reach a degree of seriousness before doing so.”
168. In *Richmond Pharmacology Ltd v Dhaliwal* [2009] IRLR 336, the EAT commented that “Dignity is not necessarily violated by things said or done which are trivial or transitory, particularly if it should have been clear that any offence was unintended. Whilst it is very important that employers and tribunals are sensitive to the hurt that can be caused by offensive comments or conduct (which are related to protected characteristics), “.. it is also important not to encourage a culture of hypersensitivity or the imposition of legal liability in respect of every unfortunate phrase paragraph [22].”

Burden of Proof

169. The shifting burden of proof applies to claims under the *Equality Act 2010, s136 EqA 2010*.
170. In approaching the evidence in a case, in making its findings regarding treatment and the reason for it, the ET should observe the guidance given by the Court of Appeal in *Igen v Wong* [2005] ICR 931 at para 76 and Annex to the judgment.
171. In *Madarassy v Nomura International plc* 2007 EWCA Civ 33, [2007] ICR 867, Mummery LJ approved the approach of Elias J in *Network Rail Infrastructure Ltd v Griffiths-Henry* [2006] IRLR 865 and confirmed that the burden of proof does not simply shift where M proves a difference in protected characteristic and a difference in treatment. This would only indicate a possibility of discrimination, which is not sufficient, para 56 – 58 Mummery LJ.

Protected Disclosures

172. An employee who makes a "protected disclosure" is given protection against his employer subjecting him to a detriment because he has made such a protected disclosure.

173. "Protected disclosure" is defined in s43A Employment Rights Act 1996: "In this Act a "protected disclosure" means a qualifying disclosure (as defined by section 43B) which is made by a worker in accordance with any of sections 43C to 43H."

174. "Qualifying disclosures" are defined by s43B ERA 1996,

"43B Disclosures qualifying for protection

(1) In this Part a 'qualifying disclosure' means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following -

.....

(b) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject...."

Detriment

175. Protection from being subjected to a detriment is afforded by *s47B ERA 1996*. A "whistleblower" who has been subjected to a detriment by reason of having made protected disclosures may apply for compensation to an Employment Tribunal under *s48 ERA 1996*. On such a complaint, it is for the employer to show the ground upon which any act was done, *s48(2) ERA 1996*.

176. In *Fecitt v NHS Manchester* [2012] ICR 372, the Court of Appeal held that the test of whether an employee has been subjected to a detriment on the ground that he had made a protected disclosure is satisfied if, "the protected disclosure materially influences (in the sense of being more than a trivial influence) the employer's treatment of the whistleblower." Per Elias J at para [45].

Discussion and Decision

177. The Tribunal took into account all its findings of fact and the relevant law when coming to its decisions. For clarity, it has set out its findings on each issue separately.

178. Nevertheless, the Tribunal came to some overarching conclusions on all the evidence, which it is appropriate to set out at this point.

179. The Tribunal concluded that the Claimant had decided, from the outset, that Ms Ozanne would be biased because the Claimant was not British and was a woman and BAME. In other words, the Claimant had decided, at the beginning of Ms Ozanne's management of the Claimant, that Ms Ozanne would be racist in her dealings with the Claimant.

180. The Tribunal considered that, as a result of this preconception, the Claimant was predisposed to find fault with Ms Ozanne and to see race discrimination in Ms Ozanne's interactions with her, when there was none.

181. The Tribunal refers to its findings on each individual allegation of race discrimination and harassment against Ms Ozanne, in more detail below.
182. The Tribunal concluded that, throughout her management of the Claimant, Ms Ozanne was engaging in normal management of the Claimant, attempting to ensure that the Claimant carried out her duties as Head of Department. The Claimant took unwarranted exception to this.
183. The length of the investigation into the Claimant's workplace complaints of discrimination and harassment, however, from March 2022, to its conclusion in February 2023, was simply too long. The delay was unreasonable, especially in light of the Claimant's repeated reminders to Ms Bland and Ms Maxwell that she felt her health was suffering as a result of the delays.
184. The Tribunal found that Ms Bland did not prioritise the Claimant's complaints over Ms Bland's other duties.
185. The Respondent acted unreasonably in the management of the Claimant's complaints. The Respondent ought to have recruited more administrative staff earlier to assist Ms Bland. Employment agencies exist, providing temporary staff at short notice.
186. The Tribunal accepted Ms Bland's evidence that she, personally, was overwhelmed with work, and was working evenings and weekends and holidays, because of her workload. What she described was too much work for one person.
187. The Tribunal noted the Claimant's Trade Union representative's evidence that there were delays, generally, in grievance investigations at SOAS.
188. The Tribunal observed that employees are likely to become disaffected and unhappy if their complaints are ignored, or are not addressed for long periods of time. The Claimant clearly became even more entrenched in her negativity towards the Respondent during the course of the investigation into her complaints.
189. However, on all the evidence, the Tribunal decided that the Respondent, and, specifically, Ms Bland, did not victimise the Claimant in this regard. Her delays in the investigation process were caused by overwork and simple failure to prioritise the Claimant's grievance over other overwhelming amounts of work. Ms Bland's other work was equally important, for example, a major review of health and safety issues which had been identified.
190. Regarding alleged protected acts, while the Claimant told Dr Awino Okech, the Respondent's Associate Director for Equitability, that she was having difficulties with Ms Ozanne, as a manager on 12 August 2021, the Claimant did not mention race discrimination. She also understood that Dr Awino Okech would keep their conversation confidential. This was not a protected act. Even if it had been, there was no evidence that Dr Okech told anyone else about her confidential conversation with the Claimant. It was not suggested that Dr Okech was responsible for any of the alleged acts of detriment in the case. The victimisation allegations based on this alleged protected act therefore fail.

191. Even if the Claimant made a protected disclosure or protected act, when she spoke to Mr Habib on 6 December 2021 or 28 January 2022, there was no evidence that Ms Ozanne knew of the protected disclosure, or the Claimant's allegation of race discrimination made to Mr Habib on 6 December 2021 or 28 January 2022. As Ms Ozanne did not know of any protected act until 16 March 2022, the Claimant's allegations of victimisation against her, before 16 March 2022, also therefore fail.
192. Further, there was no evidence that any of the relevant decision makers knew of the Claimant's protected disclosure made to Mr Habib on 28 January 2022. As none of the decision makers knew of the protected disclosure, the protected disclosure detriment claim fails. There were no facts from which the Tribunal could decide that this was a *Royal Mail v Jhuti* type case.
193. The Tribunal now addresses the individual allegations.
194. *At a meeting on 11 August 2021 between the Claimant and Professor Ozanne, Professor Ozanne singled out the Claimant by asking her "why can only you not do this?" (race discrimination);*
195. On the facts, the Tribunal found that Ms Ozanne did discuss with the Claimant why her Department, in particular, was repeatedly submitting forms which were incorrectly completed. The Tribunal found Ms Ozanne to be a dispassionate and matter-of-fact witness. It accepted her evidence that she did not say anything in an accusatory manner, but raised an objective problem with the Claimant's department's form-filling. Ms Ozanne's actions were because of the fact that there were mistakes on forms. They were nothing to do with the Claimant's race.
196. *On 12 August 2021, Professor Ozanne set the Claimant another task just as she was about to start a period of annual leave deliberately to make the Claimant late in leaving work that day (race discrimination);*
197. The Tribunal found that Ms Ozanne asked the Claimant to agree the terms of a contract for a colleague, Justin Watkins, and talk to Justin Watkins. There was no dispute that this was part of the Claimant's responsibilities as Head of Department. When the Claimant said that she was going on annual leave, Ms Ozanne immediately accepted this and that the Claimant could not speak to Mr Watkins until her return from leave. Ms Ozanne's actions were unexceptional and unobjectionable. She did not deliberately make the Claimant late. This was nothing to do with race.
198. *On 13 September 2021, in Professor Ozanne's office, Professor Ozanne raised the subject of Japanese food and that her family likes this cuisine and that they eat sushi (race discrimination and harassment);*
199. On one occasion in 18 months, Ms Ozanne spoke to the Claimant warmly about her local Japanese restaurant and her family's love of sushi. She did so, knowing that the Claimant was Japanese and believing that the Claimant would receive this positively. She was making small talk and trying to establish a point of shared interest. Ms Ozanne said nothing detrimental about Japan. This was one

conversation of many, about many different subjects, which Ms Ozanne had with the Claimant over the course of 18 months.

200. The Tribunal concluded that, even if Ms Ozanne's comments in this regard were partly because of the Claimant's race, or related to the Claimant's race, they were not a detriment, nor harassment. The Tribunal took into account that Ms Ozanne also mentioned, on another occasion, that her husband had worked for a Japanese bank. Again, in that context, Ms Ozanne said nothing negative.
201. The Tribunal decided that Ms Ozanne mentioning a sushi restaurant and her family's love of sushi was not a detriment because a reasonable person would not consider themselves at a disadvantage when a manager, trying to be friendly and find common ground, was enthusiastic about food from the person's country of origin. A reasonable person would not take offence at such complimentary and friendly words.
202. Likewise, regarding harassment, even if the Claimant did perceive the comments to be harassing, she was not reasonable in doing so. On all the facts, Ms Ozanne's words did not meet the statutory definition of harassment. The Tribunal reminded itself of Underhill J's words in *Richmond Pharmacology Ltd v Dhaliwal* [2009] IRLR 336, "Dignity is not necessarily violated by things said or done which are trivial or transitory, particularly if it should have been clear that any offence was unintended. Whilst it is very important that employers and tribunals are sensitive to the hurt that can be caused by offensive comments or conduct (which are related to protected characteristics), "... it is also important not to encourage a culture of hypersensitivity or the imposition of legal liability in respect of every unfortunate phrase paragraph [22]." In this case, Ms Ozanne's words were not even "unfortunate". They were not reasonably seen as hurtful or misjudged. On the contrary, the Claimant's objection reflected the Claimant's own hypersensitivity and predisposition to find fault with Ms Ozanne.
203. *On 27 September 2021, Professor Ozanne sent an email to the Claimant criticising the Claimant's automatic email response on the basis that it did not feel welcoming (race discrimination and harassment);*
204. The Tribunal accepted Ms Ozanne's evidence that she sent this email to the Claimant because she genuinely believed that the Claimant's out of office response, during Freshers' week, when the Claimant was actually in work, was not welcoming to students at the start of term. This was nothing to do with race; it was not in any sense because of race, or related to race. The Claimant's comparator was not in the same circumstances because he was actually away on leave when he turned on his out of office reply.
205. *Between 7 – 13 October 2021, Professor Ozanne placed the Claimant under a lot of unnecessary stress by changing the interview schedule for the role of lecturer in South Asian studies at short notice (race discrimination);*
206. Ms Ozanne genuinely and reasonably believed that the 20 minute interviews which the Claimant had scheduled for the role of lecturer were not long enough and asked for the interviews to be scheduled for a more appropriate length of about 1 hour. This was nothing to do with race. Further, on the facts, Ms Ozanne responded to the

Claimant promptly, within a few days of being sent the schedule, and more than a week before the interviews were due to take place. Ms Ozanne did not ask for the changes “at short notice.”

207. *On 21 October 2021, Professor Ozanne accused the Claimant of not paying a related payment to a teaching fellow when she had and failed to apologise for her accusation which was made in front of others present at the meeting (race discrimination);*
208. Ms Ozanne did not accuse the Claimant of not making payments, and she did not fail to apologise for having done so.
209. *At a meeting on 28 October 2021 whilst discussing Equality, Diversity and Inclusion issues, the Claimant was interrupted and prevented from speaking by Professor Ozanne who stated sternly “Nana, we have no time for listening” (race discrimination and harassment)*
210. The Tribunal did not find that this happened.
211. *In November 2021, Professor Ozanne placed pressure on the Claimant to step back from her headship (race discrimination and harassment);*
212. On all the evidence, the Tribunal found that Ms Ozanne reasonably queried the Claimant’s aptitude for the role of Head of Department. The Claimant had failed, over a number of months, to complete important plans, for which she had previously been given training and had also been given individual guidance by Ms Ozanne. The required plans were clearly fundamental to the performance of the Department, including a plan for how current programmes would meet the guided curriculum; and actions to address the poor student satisfaction scores.
213. The Tribunal accepted that Ms Ozanne’s email of 2 November 2021 gave the reason for her querying the Claimant’s aptitude for the role. She said that there was no point in further discussion of the plans, which the Claimant had still not completed, and said, “I noted that if the improvements needed, and identified by you as being achievable by mid-December 2021, were not fully completed we would need to have a conversation about your role as HoD. I would need to consider whether you were fully meeting the requirements of the role and what remedial steps would need to be taken to improve your work performance because it is an important part of your role to ensure critical improvements are effected within the required timescales.”
214. Ms Ozanne’s reasons were nothing to do with race and everything to do with the Claimant’s failure “to ensure critical improvements are effected within the required timescales.” Ms Ozanne was appropriately monitoring and managing the Claimant’s performance. Even if Ms Ozanne’s actions were unwanted by the Claimant, they were not related to race, or because of race.
215. *In December 2021, Professor Ozanne did not show any compassion towards the Claimant in relation to her uncle, her family situation, and his terminal illness (race discrimination);*

216. This allegation failed on the facts. The Tribunal accepted Ms Ozanne's evidence that she discussed, in person with the Claimant, her request for leave in relation to her uncle and family circumstances; and sympathised with the Claimant.
217. *On 6 December 2021, at a stress risk assessment meeting Professor Ozanne pressurised the Claimant to say that they didn't have a problematic relationship (race harassment);*
218. On an objective reading of her own contemporaneous email, the Claimant confirmed that, in the stress risk assessment meeting, she had identified previous employment relationships as stressors, and not her current employment relationship with Ms Ozanne. In this contemporaneous email, the Claimant did not say that she believed that Ms Ozanne had pressurised her to say that their relationship was not problematic. The Tribunal concluded that Ms Ozanne did not pressurise the Claimant as the Claimant alleged.
219. *In December 2021, Professor Ozanne corrected the Claimant's use of English at a meeting in front of colleagues indicating that the correct phrase is "people of colour" rather than "non-white people" or "people in colour" (race discrimination and harassment);*
220. Ms Ozanne referred to the preferred terminology at SOAS being "people of colour". The Claimant had been talking about a third person, when she used a different descriptor of race – she had not been referring to herself. Ms Ozanne's intention was to respect the expressed wishes of students and others at SOAS regarding how they wished to be described.
221. The Tribunal found that Ms Ozanne's guidance was not because of the Claimant's race, nor related to the Claimant's race.
222. However, because it related to a description of race, Ms Ozanne's guidance was related to "race" more generally for the purposes of a harassment complaint.
223. The Tribunal found that, even if this was unwanted conduct, it was not a detriment for the purposes of a race discrimination claim, nor did it meet the statutory definition of harassment.
224. A reasonable person would not consider themselves at a disadvantage by being reminded of other people's preferred descriptors. It is appropriate for a manager to guide their staff member to respect other people's preferred racial descriptors. That honours the third person's preference and protects the staff member from unintentionally giving offence.
225. Likewise, even if the Claimant perceived that she had been harassed, it was not reasonable for her to do so, in all the circumstances. Ms Ozanne's guidance did not relate to terminology the Claimant was using to describe herself. Ms Ozanne's guidance was clearly not intended to be offensive to the Claimant, but to ensure that the Claimant herself was respecting others' preferences.

226. *In the period late September 2021 to early January 2022, Professor Ozanne in her role as the Claimant's line manager increased her workload by asking her to undertake an NSS/TESEP plan and to agree and implement 19 action plans by herself by mid-December. Prof Ozanne threatened the Claimant if she failed to undertake the associated reports (race discrimination and harassment);*
227. *During Christmas 2021, Professor Ozanne asked the Claimant to undertake tasks that were not necessary including writing up a report on teaching excellence and a student experience action plan (race harassment);*
228. As the Tribunal has concluded above, the Tribunal found that Ms Ozanne was managing the Claimant's performance. On 3 August 2021 Ms Ozanne had originally asked the Claimant to produce an action plan, for 4 important areas, by 9 August 2021. The Claimant's repeated failure to do this satisfactorily, despite training, led to multiple iterations of the plans and multiple meetings to discuss them. This was nothing to do with race.
229. *Prof Ozanne failed to show any compassion for the Claimant's consequential medical condition or to wish her well (race discrimination);*
230. This allegation failed on the facts. When, on 10 January 2022, the Claimant notified Ms Ozanne that she was unwell and taking sick leave, p289, Ms Ozanne responded within an hour saying, "I am very sorry to hear this. Let me know if there is anything urgent that I can pick up for you." The Tribunal considered that that was a compassionate and supportive response.
231. *In February 2022, Professor Ozanne ignored that Claimant's request for her one-to-one meetings to take place with the Deputy Head and pressurised her into accepting that the one-to-one meetings take place with her (race discrimination and harassment);*
232. Ms Ozanne did ask the Claimant to continue to attend 1-2-1 meetings with Ms Ozanne. The Tribunal accepted Ms Ozanne's evidence that she considered that it was not appropriate for her to meet the Deputy Head instead of the Claimant, because the Claimant was HoD, was fit to attend work and it was necessary for the Claimant and Ms Ozanne to meet to ensure proper oversight of her Department. It accepted Ms Ozanne's evidence that the Deputy Head was not a suitable substitute, given the unsatisfactory nature of their meeting on 11 January 2022. The Tribunal noted that the OH report had recorded strains in the Claimant and Ms Ozanne's relationship and in their 1-2-1 meetings, but had not advised that their 1-2-1 meetings should stop.
233. Ms Ozanne's insistence that the Claimant continue to meet with her in 1-2-1 meetings was for all these reasons and, therefore, not because of race, or related to race, in any way.
234. *On 11 March 2022, Professor Ozanne allowed Dr Wallach to take research leave which increased the Claimant's workload and, in the process, undermined her (race discrimination and harassment);*

235. Ms Ozanne effectively allowed the appeal decision on Dr Wallach's research leave to be made by Andrea Cornwall. Ms Cornwall advised that Dr Wallach's appeal should be upheld, on the basis that Mr Wallach had been eligible for, but had been denied, research leave during the pandemic and SOAS had said that it would prioritise applications for research leave from people affected in this way. Ms Cornwall also commented that allowing Mr Wallach leave during Term 3 should be easier to accommodate than in Terms 1 or 2, because of the reduced teaching load, p1006.
236. On 11 March 2022 Ms Ozanne informed the Claimant and Mr Wallach of Ms Cornwall's decision to uphold Mr Wallach's appeal. She did not inform the Claimant separately.
237. The Tribunal accepted that Ms Cornwall made the decision for the reasons she gave, which were logical and reasonable.
238. The Tribunal accepted that Dr Wallach's absence may have increased the Claimant's workload and that the failure to notify the Claimant separately may have been given the impression that the Claimant had been undermined.
239. However, the decision to allow Dr Wallach's research leave was not made because of race at all. Further, while the decision making process may have given the appearance of undermining the Claimant, there was no evidence that Ms Ozanne or Ms Cornwall would have acted any differently towards a Head of Department of a different race. The failure to notify the Claimant separately about the appeal outcome was not ideal, but was not less favourable treatment.
240. For the same reasons, this was not race harassment – it was not related to the Claimant's race.
241. *In March 2022, Professor Ozanne failed to support the Claimant's funded research project and increased her workload so that she could not work on research at all (race discrimination);*
242. The Tribunal rejected the Claimant's contention that her research had not been supported, so that she had been treated less favourably than Dr Wallach. On 14 December 2021 Ms Cornwall had offered the Claimant help, "... to look at your report and to create a policy brief from it, which we could also feature on the SOAS website. Or we could ask Alison's ICOP team to prepare a brief for you based on your report, which could also be used to send a briefing to Parliament on the findings." P266. The Claimant had never responded to Ms Cornwall's email.
243. *On 16 March 2022, Professor Ozanne made inaccurate notes of the risk assessment which were a misrepresentation of what happened and what was said. Professor Ozanne's notes made her look better. Professor Ozanne then refused to correct the note (race discrimination and harassment);*
244. This allegation failed on the facts; the Tribunal found that Ms Ozanne's notes were accurate.

245. *On 16 March 2022, Professor Ozanne criticised the Claimant within her role as Head of School stating to the Claimant something to the effect of: "You do not understand the role of the Head, and you should be responsible for that kind of work". However, the Claimant did not line manage professional services, so it was not part of her role or her responsibility (race discrimination and harassment);*
246. This allegation also failed on the facts. Ms Ozanne did not say those words. The Claimant misinterpreted Ms Ozanne's explanation of responsibilities in relation to WAMS data, in that, while the Claimant was able to delegate the inputting of data to her departmental team, as HoD the Claimant would retain responsibility for the submission of LCL's data. Ms Ozanne also offered the Claimant support in prioritising her workload.
247. *On 16 March 2022 Prof Ozanne added an imaginary item to the risk assessment meeting notes which was never discussed (race discrimination);*
248. Ms Ozanne's notes were accurate.
249. *In March 2022, Jo Bland made it clear that she did not wish to discuss the Claimant's grievance with the UCU Trade Union or any external parties and suggested that an investigation take place instead of an agreed mediation (race discrimination);*
250. The first parts of this allegation were not correct on the facts: Ms Bland did not discourage discussion with the UCU Trade Union or an external party. She suggested that an external party, a solicitor, conduct an investigation.
251. Regarding the second part of this allegation, Ms Bland did suggest that an investigation, rather than mediation, was the appropriate mode of resolving the Claimant's complaints, despite Ms Ozanne having agreed to mediation. The external investigation was not in accordance with any of the Respondent's relevant policies. The Claimant had not presented a formal grievance.
252. However, the Tribunal concluded that Ms Bland genuinely believed that mediation would not provide the outcome which the Claimant sought and that an investigation was the appropriate way to address the Claimant's complaints. It accepted her evidence that she did not consider that mediation was likely to be effective, in that the mediation process was unlikely to attribute blame as the Claimant believed.
253. Ms Bland's suggestion was nothing to do with race, or the fact that the Claimant had complained about race discrimination. She was genuinely attempting to provide a determination of the Claimant's complaints, which was the outcome the Claimant wanted.
254. *On 11 April 2022, Jo Bland raised her voice and accused the Claimant of being rude in talking at her behind her back and threatened to make a complaint about the Claimant (race discrimination, race harassment, victimisation);*
255. The Tribunal preferred Ms Bland's account of this exchange. Ms Bland did eventually tell the Claimant that she would make a complaint about her, after the Claimant had approached Ms Bland from behind, as Ms Bland was sitting down, in front of other

HoDs and managers, and commenced a long and unpleasant complaint to Ms Bland about the progress of the investigation, in a nasty tone of voice. The Claimant rejected all placatory remarks and suggestions, by Ms Bland and a colleague, Becky McKenzie-Young, that they discuss her concerns in a less public environment.

256. Ms Bland's statement that she would complain about the Claimant had nothing to do with the Claimant's race. It was solely because the Claimant was persisted in being unpleasant and nasty towards Ms Bland. Although the Claimant was talking about her grievance, which included a protected act of which Ms Bland was aware, Ms Bland did not say she would complain because the Claimant had done a protected act, but solely because of the manner in which the Claimant was addressing Ms Bland. This was not victimisation.
257. *In April 2022, whilst the Claimant was on annual leave, Jo Bland send the Claimant an email about a non-urgent matter, called her mobile and left a voicemail (race harassment);*
258. The Tribunal found, on the facts, that all HoDs, including the Claimant, were asked to provide Departmental information to a tight deadline, to allow the decasualisation paper to be finalised so that it could be presented to the Executive Board. The Claimant was on annual leave, but the information was required urgently and, as HoD, the Claimant was the person in LCL Department who had the required information. The Claimant was asked to do exactly what the other HoDs were asked to do.
259. Ms Bland contacting the Claimant while she was on leave was nothing to do with race. It was therefore not race harassment. All Heads of Department were contacted; the Claimant happened to be on leave.
260. *Between March 2022 and February 2023, the Respondent intentionally delayed the investigation into the Claimant's complaints, failed to appoint an appropriate person to conduct the investigation and failed to provide any evidence as part of the investigation outcome that there was no racial discrimination (race discrimination);*
261. *An unacceptable delay in the investigation into the Claimant's complaints between March 2022 and February 2023 and a failure to provide all of the evidence mentioned in the investigation outcome (victimisation)*
262. The Tribunal found that the delay between the Claimant making her complaints and receiving an outcome was wholly unreasonable. However, it did not find that the delay was intentional. As stated above, Ms Bland was simply overwhelmed with work and did not prioritise the Claimant's complaints above other equally important items in her unmanageable workload.
263. At least some delay in the investigation included months for the terms of reference to be agreed – the Claimant's input into this also took time.
264. The Tribunal did not find that Esther Maxwell was an inappropriate person to conduct the investigation; she was an independent solicitor and therefore eminently suitable. Ms Bland remained as Ms Maxwell's contact at the Respondent during the

investigation, despite becoming a subject of the investigation herself. However, there was absolutely no evidence that she had any input into the contents of Ms Maxwell's report.

265. Ms Maxwell's findings referred to the oral evidence which witnesses had relayed to her. That was just as much evidence as documentary evidence. There was no absence of evidence. The Tribunal did not have any evidence that Ms Maxwell would have sought different or additional evidence on a complaint by a comparator of a different race, or who had not done a protected act.
266. The Tribunal was satisfied that the Respondent had shown that the conduct of the investigation was not related to race in any way; it was not race discrimination and not race harassment. The Tribunal was also satisfied that the Respondent had shown that delays in the investigation were not because the Claimant had done a protected act.
267. *On 5 and 6 May 2022, Professor Ozanne emailed the Claimant about the Work Allocation Model which is not part of her role (race harassment)*
268. The Tribunal decided that providing information for the WAMs was part of the Claimant's role. The Economics Department was asked to provide the same information, p350. There was therefore no differential treatment of the Claimant or her Department. Ms Ozanne's emails about WAMs were not related to race; they merely asked the Claimant to fulfil one of her job responsibilities.
269. *In September 2022, the Respondent's investigation into the Claimant's complaints deliberately disturbed the Claimant's contractual sabbatical (race discrimination);*
270. The investigation was ongoing when the Claimant went on sabbatical in September 2022. The Terms of Reference had still not been finalised at that point, so the investigation was inevitably continuing. There was no evidence that the investigation deliberately disturbed the Claimant's sabbatical: nor that the Respondent would have treated a comparator of a different race in another way. The Tribunal was satisfied that the Claimant was not treated less favourably in this regard, so that there was no race discrimination.
271. *In October 2022, at a fund-raising event Professor Ozanne walked over to the Claimant where she was part of a group of four and gazed at her to intimidate her as she walked towards her to intimidate her and cause distress (race discrimination and harassment);*
272. The Tribunal accepted Ms Ozanne's evidence that she did not do this.
273. *On 14 February 2023, Jo Bland copied Professor Adam Habib into an email to the Claimant with no good reason (race discrimination and harassment);*
274. Mr Meer had previously suggested to Mr Habib that there was a problematic division between academic staff and professional staff at SOAS. Mr Habib had asked Mr Meer to provide him with evidence of this. Mr Meer felt that the Claimant's insistence on using titles constituted such evidence and he asked Ms Bland to copy Mr Habib

into this exchange. The Tribunal accepted that that was the reason Ms Bland copied Mr Habib into the correspondence – it had nothing to do with race.

- 275. *At the end of February 2023, the Claimant received the outcome of the investigation report which did not uphold the Claimant’s complaints and advised that there was no evidence of racial discrimination. The outcome report failed to produce any evidence to prove that Professor Ozanne and Jo Bland did not harass the Claimant and failed to follow internal processes (race discrimination)*
- 276. *The Respondent not upholding the Claimant’s complaints against Professor Ozanne and Jo Bland and not accepting the Claimant’s allegations of institutional racism (victimisation).*
- 277. The Tribunal refers to its findings above. Ms Maxwell produced a report giving a reasoned outcome relying on the witness evidence she received. The Tribunal did not accept that the report lacked evidence for its findings.
- 278. The Tribunal refers to its findings above regarding the choice of procedure.
- 279. The Tribunal was satisfied that the Claimant was not treated less favourably than a comparator in the same circumstances. It was satisfied that the Respondent’s choice of procedure and investigation outcome were not tainted by race discrimination or victimisation in any way.
- 280. *On 15 May 2023, Khadir Meer offered no explanation for the delay in the investigation (race discrimination).*
- 281. Mr Meer did not recall the delay in the investigation being discussed during his conversation with the Claimant on 15 May 2023. However, even if he offered no explanation for the delay, there was no evidence that he would have behaved differently in the meeting towards someone who was not Japanese. There was no less favourable treatment of the Claimant than a comparator and no race discrimination.

Conclusion

- 282. In conclusion, the Claimant’s complaints all failed. A remedy hearing will not take place.

.....
Employment Judge Brown

19 April 2024

SENT to the PARTIES ON

.....8 May 2024.....

.....
FOR THE TRIBUNAL OFFICE