THE EMPLOYMENT TRIBUNALS

Claimant		**Respondent**
Dr S Hatab	**v**	**King's College London**

Heard at: London Central

On: 8-11 and 14-17 October 2024
In Chambers 7 & 8 November 2024

Before: **Employment Judge Glennie**
Ms T Shaah
Mr A Greenland

Representation:
Claimant: In person
Respondent: Mr R Fitzpatrick (Counsel)

JUDGMENT

The unanimous judgment of the Tribunal is that the complaints of unfair dismissal; breach of contract; direct discrimination because of race; direct discrimination because of religion or belief; harassment related to race; harassment related to religion or belief; and victimisation are all dismissed.

REASONS

1. By her claim to the Tribunal the Claimant, Dr Hatab, brings complaint of unfair dismissal; breach of contract (wrongful dismissal); direct discrimination because of race; direct discrimination because of religion or belief; harassment related to race; harassment related to religion or belief; and victimisation. The Respondent, King's College London, disputes those complaints.

2. The Tribunal is unanimous in the reasons that follow.

3. There was an agreed bundle of documents containing 2,889 pages. Page numbers that follow in these reasons refer to the bundle.

Preliminary Matters

4. The Tribunal decided to hear and determine the issues as to liability in the first instance.

5. A question arose at the commencement of the hearing as to the issues to be determined. The procedural history of the case relevant to this aspect is as follows.

6. The claim was presented on 23 September 2023. In section 8.1 of the claim form (page 7) the Claimant indicated complaints of unfair dismissal, discrimination on the grounds of race and religion or belief, and breach of contract. She gave further details in boxes 8.2 and 15. The Response (page 17 onwards) was presented on 31 October 2023. Among other things, the Respondent asserted that the claim had not been fully particularised.

7. The Claimant then produced 3 further documents. The first (page 53 onwards), headed "General context and factual background", contained 31 pages. The second (page 84 onwards), with the same heading as the first, contained 53 pages. The third (page 137 onwards), headed "Grounds of claim and amended particulars and legal pleading of the claim", contained 76 pages.

8. There were 2 preliminary hearings for case management before Employment Judge Coen, on 27 November and 11 December 2023. Following the latter, the parties engaged in the task of preparing an agreed list of issues.

9. A third preliminary hearing took place before Employment Judge Fredericks-Bowyer on 1 March 2024. The parties had not been able to agree on a list of issues and there were 2 versions produced to the judge. EJ Fredericks-Bowyer determined the Claimant's application to amend the claim, allowing 4 elements of this. The Claimant applied for reconsideration of the decision, which the judge refused. Although EJ Fredericks-Bowyer's Orders and reasons from this preliminary hearing are dated 15 May 2024, it appears that they were sent to the parties on 8 June 2024, by which time EJ Fredericks-Bowyer had varied some aspects on 3 June 2024.

10. The document sent on 8 June 2024 was accompanied by another entitled "Determined List of Issues". This had been formulated by EJ Fredericks-Bowyer, evidently drawing from the 2 lists of issues referred to above and his decision on the amendment application. This Tribunal considered that the "Determined" list reflected EJ Fredericks-Bowyer's determination of the scope of the claim.

11. There followed some correspondence between the parties which included reference to the "Determined" list of issues, in which the Claimant made it clear that she did not agree with this.

12. Mr Fitzpatrick prepared an Opening Note for the present hearing. The Claimant provided comments on this, in which she set out at paragraph 27.11 the complaints that she contended were in issue. These went beyond those in the "Determined" list of issues. They included, but were not limited to, a complaint about workload over the period September 2021 to November 2022; a complaint of exclusion from research funding on 29 November 2022; and a complaint about Dr Santos referring to 31 December 2022.

13. In summary, the Claimant's position was that all of the complaints that she had listed were to be found in the pleadings and should therefore be contained in the list of issues. In paragraph 27.10 of her comments she relied on the 53-page document referred to in paragraph 7 above as the pleading. The Claimant therefore contended that, before commencing the hearing, the Tribunal should revisit the list of issues with a view to re-defining what was within the scope of the claim.

14. Mr Fitzpatrick argued that the Claimant's pleaded case was to be found in the claim form, and that none of the 3 additional documents had that status. He submitted that they could amount either to further particulars of any complaints that were already within the claim form, or an (implied) application to amend in respect of any that were not.

15. The status of a list of issues was discussed by Mummery LJ in **Parek v London Borough of Brent [2012] EWCA Civ 1630**. In that case, the Employment Judge had drawn up a list of issues, described as those "definitively recorded" by him. In paragraph 31 of his judgment, Mummery LJ continued as follows:

> "a list of issues is a useful case management tool developed by the tribunal to bring some semblance of order, structure and clarity to proceedings in which the requirements of formal pleadings are minimal. The list is usually the agreed outcome of discussions between the parties or their representatives and the employment judge. If the list of issues is agreed, then that will, as a general rule, limit the issues at the substantive hearing to those in the list……As the ET that conducts the hearing is bound to ensure that the case is clearly and efficiently presented, it is not required to stick slavishly to the list of issues agreed where to do so would impair the discharge of its core duty to hear and determine the case in accordance with the law and the evidence….. Case management decisions are not final decisions. They can therefore be revisited and reconsidered, for example if there is a material change of circumstances. The power to do that may not often be exercised, but it is a necessary power in the interests of effectiveness….."

16. Mr Fitzpatrick referred the Tribunal to **Hassan v BBC [2023] EAT 48**. In paragraph 57 of her judgment the President, Eady J, quoted the following part of the Court of Appeal's judgment in **Bailey v GlaxoSmithKline [2019] EWCA Civ 1924:**

"Active case management in accordance with the overriding objective will often involve the identification of a list of issues. That list of issues will generally be used to form the basis of the management of the case, of the need for disclosure and of the preparation of factual and expert evidence for trial, as it did in this case. Allowing parties at trial to expand the issues and the evidence needed in reliance on pleading points is to undermine such good case management."

17. In **Mervyn v BW Controls Limited [2020] IRLR 464** the Court of Appeal observed that, while it would be unusual for a Tribunal to depart from the terms of a list of issues, there was no requirement of exceptionality before it could do so. The Court of Appeal stated that what was necessary in the interests of justice depended on a number of factors, and gave examples. The Tribunal noted that one of these was whether the amendment (to the list of issues) was being sought before any evidence was called. Another was whether amending the list would delay or disrupt the hearing, or cause the length of the hearing to be expanded beyond the time allocated to it.

18. The Claimant stated that she had raised all of the complaints concerned at the preliminary hearings, and said that EJ Fredericks-Bowyer had not gone through what had been discussed and clarified, but made a decision on what the Respondent had highlighted.

19. Mr Fitzpatrick told the Tribunal that the Respondent did not have the witnesses available who would be needed to deal with the complaints identified by the Claimant and not contained in the "Determined" list of issues. He said that he had not prepared cross-examination of the Claimant on the basis that these matters might be in issue. Mr Fitzpatrick submitted that raising a matter at a preliminary hearing did not mean that it had become an issue in the case.

20. The Tribunal adjourned briefly to consider the situation. On the Tribunal's return, the Employment Judge stated that, if the Tribunal were to decide that the list of issues should be reopened, it would be inevitable that a further case management hearing would be required, which in turn would mean that the current hearing would almost certainly have to be postponed, as there would not be sufficient time left within the current allocation to complete it. This would be so whatever the outcome of the reopening of the list of issues. The hearing could not be re-listed before Spring or Summer 2025 at best. It then being very nearly one o'clock on day 1 of the hearing, the Tribunal adjourned for the lunch break, having asked the Claimant whether, in the light of that indication, she wished to continue to argue that the list of issues should be reopened.

21. The hearing resumed two o'clock, at which time the Claimant said that she did indeed wish to re-open the list of issues. Mr Fitzpatrick maintained his opposition to this. The Tribunal then adjourned to consider its decision.

22. The Tribunal unanimously concluded that the hearing should continue on the basis of the "Determined" list of issues, for the following reasons:

22.1 Although the application to re-open the list of issues was being made before any evidence had been called, acceding to this would cause the current hearing to be postponed and re-listed, when both parties and the Tribunal were otherwise ready to proceed.

22.2 The question was being considered at a late stage in the progress of the case, i.e. on the first day of the final hearing.

22.3 There had already been 3 preliminary hearings, and postponing the hearing in order to conduct another would increase the costs to the parties and place an additional demand on the Tribunal's resources, to the disadvantage of other users.

22.4 The outcome of re-opening the list of issues would be a decision either that the list should remain as it is, in which case the exercise would have achieved nothing, or that the list should be expanded, in which event further preparation would be required, as a minimum in respect of the bundle of documents and the witness evidence.

22.5 The current list of issues is extensive and enables the Claimant to advance multiple complaints of discrimination, harassment and victimisation, as well as those of unfair dismissal and breach of contract.

22.6 It was not therefore in the interests of justice to depart from the existing list of issues.

23. The Tribunal communicated that decision to the parties at the close of day 1 of the hearing. We spent day 2 reading into the case, and commenced hearing evidence on day 3.

The Issues

24. The Tribunal will adopt the numbering in the "Determined" list of issues (hereafter referred to as "the list of issues / the issues"). They are also expressed as they appear in that list, it evidently being the case that EJ Fredericks-Bowyer drew the terms of the issues from the parties' documents, rather than re-drafting them himself. The list of issues is not in precise chronological order, and there are elements of duplication and cross-over between different causes of action. The Tribunal will address these matters in the course of its reasons.

25. The list of issues should be read as an annex to these reasons.

Evidence and findings of fact

26. The Tribunal heard evidence from the following witnesses:

26.1 The Claimant, Dr Hatab.

26.2 Professor Louise Tillin, Professor of Politics in the Respondent's India Institute, and the Claimant's line manager during her employment.

26.3 Dr Ferdinand Eibl, Senior Lecturer in Political Economy.

26.4 Professor Ekatte Ikpe, a Professor in the Faculty of Social Science and Public Policy.

26.5 Mr Nicholas Norman, End User Services Campus Manager.

26.6 Dr Srilata Sircar, a Senior Lecturer at the India Institute.

26.7 Professor Clare Herrick, Head of the School of Global Affairs and Professor of Geography and Global Health.

26.8 Mr Angus Macrae, Head of Cyber Security.

27. The Claimant is an academic and teacher in the field of political science. She has held positions in the universities of Stanford in the USA and Cairo in Egypt. The Claimant identifies her race as Arab and her religion as Muslim. The Respondent is a well-known academic institution in London. One of its Faculties is the Faculty of Social Sciences and Public Policy. The departments within that faculty include the Department of Political Economy ("DPE") and the School of Global Affairs. One Institute within the School of Global Affairs is the India Institute.

28. Dr Eibl and the Claimant had previously collaborated on a project that was unconnected with the Respondent. In June 2021 Dr Eibl informed the Claimant of an available role as Lecturer in Global Affairs with the Respondent. Although the Claimant saw herself as over-qualified for the role, she wished to obtain a higher education qualification from the UK as all of her previous teaching experience had been gained in Egypt. She (along with over 100 others) applied for the post with the Respondent and on 10 June 2021 was interviewed by a panel of 5, including Dr Eibl and Professor (then Dr) Tillin.

29. On 17 June 2021 Professor Tillin sent an email to the Claimant at page 1048 stating that the Respondent wished to offer her the post as Lecturer. On 8 July 2021 a formal offer was made of a fixed term contract of 2 years' duration.

30. In the course of her work with the Respondent the Claimant undertook the following teaching duties, all of which except for 30.2 were within the ambit of the School of Global Affairs:

30.1 Introduction to Global Affairs, a compulsory module in the MSc Global Affairs course, offered by the India Institute, which was a part of the School of Global Affairs.

30.2 Politics and Economics of the Middle East, an optional module offered by the Department of Political Economy ("DPE") as part of an MA in Politics and Economy of the Middle East.

30.3 States, Markets and People in the Contemporary Middle East.

30.4 In the second semester of her second year, Comparative Politics of Latin America.

30.5 The "Capstone" optional module in Global Affairs.

31. In an email exchange shortly after being recruited, at pages 1061-1063 on 29-30 July 2021, the Claimant told Professor Tilllin about a number of matters that were of concern to her. She referred to the rejection of articles that she had submitted to journals; having faced racism, micro-aggressions and cyber attacks at Stanford; and legal proceedings regarding hacking and cyber attacks. Professor Tillin sent a sympathetic reply on the subject of being rejected by journals, giving an example of negative feedback that she herself had received.

32. The Claimant began work in the first semester of the academic year 2021-2022. During the period 10 October to 4 November 2021 there was an exchange of emails at pages 1127-1138 between the Claimant, Dr Sircar and another colleague about grades to be awarded for a dissertation. The Claimant considered that the dissertation merited a mark of 52, while Dr Sircar assessed it at 62 or 63 (the boundary for different grades being a mark of 60).

33. In summary, Dr Sircar wished to achieve a consensus and to maintain parity with other dissertations that she had marked, while the Claimant wished to make use of the available procedure of going to a third marker, this being the other colleague who became involved in the email discussion. That colleague advised that in the first instance Dr Sircar and the Claimant should try to reach an agreement. The Claimant maintained that it was reasonable for a third party to look at the matter: ultimately the colleague did so, and the outcome was agreement on a mark of 57. This particular matter became relevant to issue (6a) later in November 2021.

34. There was a dispute about a conversation between the Claimant and Dr Sircar on 15 October, which gave rise to issue (20a), an allegation of harassment related to religion. On pages 47-48 of her witness statement the Claimant said that Dr Sircar made comments that questioned her ability to teach a liberal curriculum due to her Islamic faith, quoting the following: "the gender theme would be even difficult for [me] and [she is] not sure about the student's reaction and reception towards the activities." In her oral evidence the Claimant explained that she meant that Dr Sircar said that it would be difficult for her (the Claimant) to teach the gender theme, and that she (the Claimant) inferred that Dr Sircar was querying her ability to teach a liberal curriculum.

35. Dr Sircar's evidence in paragraph 65 of her witness statement was that she did not use the word "liberal" (in the event, the Claimant was not suggesting that she did) and did not challenge the Claimant's ability to teach the module: she wanted to alert the Claimant to the challenges she had experienced with some students in relation to this topic. In her oral evidence Dr Sircar said that she was speaking in the context of the readings being challenging, and that she had said that in her experience the readings on gender were even more challenging. She explained that they were challenging in terms of the argument put forward and the writing style. Dr Sircar continued that the Claimant then told her that it was not just a question of the readings, and that there were one or two students who had followed her from Egypt and were watching her.

36. The Tribunal found as a matter of probability that Dr Sircar said that the Claimant would find teaching this aspect difficult, and that she meant difficult because of the academic content and style of the materials to be studied. We also found that Dr Sircar said what she did because she in fact believed that the academic content and style of the materials would mean that the Claimant would find teaching this part of the course difficult; and that there was nothing unusual about a conversation of this nature between colleagues.

37. A further conversation between the Claimant and Dr Sircar on 29 October 2021 formed the subject matter of issue (20b). The allegation was that a student had said that they did not understand the Claimant's activities in circumstances where the subject matter being taught related to Israel / Palestine, and that this amounted to harassment related to religion. The Claimant's evidence on pages 48-49 of her witness statement was that Dr Sircar told her of the student's comment, and then added that the Claimant "could not please everyone" regarding Israel and Palestine and that the students' reception "depends on who is talking". The Claimant continued that she herself said: "Yes, perhaps this would not be acceptable from a Muslim woman with a headscarf that could be perceived as 'a terrorist', you mean?"

38. Dr Sircar's evidence in paragraph 55 of her witness statement was that students had said that they had had difficulty with the Claimant's seminars because of the style and manner in which they were delivered, and that she raised this with the Claimant because she was the programme convener. In her oral evidence Dr Sircar further explained that the comments she had received were similar to other feedback about the Claimant's teaching, namely that she had an "interrogatory" style.

39. The Tribunal concluded that Dr Sircar raised this matter with the Claiamnt for the reason that she gave, i.e. that it was appropriate to do so given the students' comments. It was the Claimant who introduced the subject of her religion into the conversation.

40. Issue (15a) concerned a conversation between the Claimant and Dr Eibl on 8 November 2021. The allegation was that in the course of an online meeting Dr Eibl made an out of context reference to an alleged study which questioned the mental capacity of Arabs to understand Maths and complex analysis. Dr Eibl's evidence was that he referred to research on educational policies in the Middle East which proposed reasons why there was a comparatively low performance in the Gulf states as compared to others. In his oral evidence he said that he would not make any comment implying that anyone was innately less able; that the bulk of his students were Arabs; and that he had spent years learning Arabic.

41. The Tribunal noted that the point about the Gulf states was made in a work which Dr Eibl co-authored with the Claimant in 2020 (the relevant section being at page 1029). On 10 November 2021, and so 2 days after the alleged incident, the Claimant sent an email to Dr Eibl at page 1141 in which she made no reference to the alleged comments or to her feeling harassed by anything Dr Eibl had said. The Claimant wrote in the email: "I am not sure if I thanked you enough for your time and help. I am truly grateful for the document/materials you sent to me. I know that you invested time and effort into this and not so many people would do the same.

42. The Tribunal found it unlikely that the Claimant would have sent an email in the terms of that of 10 November 2021 if she had been offended in any way by something said by Dr Eibl. We also found it unlikely that Dr Eibl would have spoken in a derogatory way about Arabs given his academic work. The Tribunal found as a matter of probability that Dr Eibl referred to the research described by him in his evidence, and that the Claimant has recalled what he said as involving something derogatory to Arabs when in fact it did not.

43. Issue (6a) concerned the exchanges referred to above about the mark to be awarded to a dissertation. The complaint was of direct discrimination because of race and/or religion. The Claimant's evidence on page 12 of her witness statement was that Dr Sircar had clearly raised this with Professor Tillin, because in a conversation on 24 November 2021 the latter asked her to consider Dr Sircar's feelings as she had a better understanding of the role in the UK.

44. Professor Tillin's evidence in paragraphs 107-110 of her witness statement was that she could not remember the meeting in detail, but that differences of this nature over marks were not uncommon and that the two markers would usually try to come to an agreement before involving a third marker. She said that she did not believe that she had mentioned Dr Sircar's feelings, but that she recalled saying something to the effect that each institution may have its own marking culture, and that the Claimant was still relatively new to the Respondent and would pick this up with time.

45. The Tribunal considered that there was little difference of substance between the Claimant's recollection of this conversation and that of

Professor Tillin. The Tribunal found that, whatever it was precisely that Professor Tillin said, she said it in order to explain to the Claimant that the Respondent's expectation in such situations was that markers should try to reach agreement before involving a third, and to point out that Dr Sircar had greater experience of the Respondent's practices. The Tribunal found this to be a straightforward and understandable reaction to the situation that had arisen, and found no reason to connect it in any way with the Claimant's race or religion.

46. There was a further meeting via Teams between the Claimant and Professor Tillin on 15 December 2021, the purpose of this being to review the semester. Professor Tillin made a note of this at pages 1154-1155. Some aspects of the discussion were as follows. Professor Tillin said that Dr Eibl had reported that things had been going well. She also said that she had, however, detected an issue about what the core activities of the Claimant's role as a lecturer were. The Claimant replied that she was abiding by her contract; that she was looking towards a post with tenure (i.e. a permanent position); that she needed time to develop her research and felt that the Respondent did not care about this; that she found dealing with certain people stressful (meaning, Dr Sircar in particular); and that she felt that Dr Sircar treated her as a GTA (a general teaching assistant) and so not in keeping with her actual status.

47. The Claimant also raised the "third marker" question again. Professor Tillin responded to the matters the Claimant had spoken about. They spoke about the Capstone project, following which the note read as follows:

"She also raised a question about whether she could streamline her workload by converting her Middle East optional module to being the 'regional core' for the programme, so she didn't need to run seminars for another module too. I explained that no this wasn't possible, and that she had been hired in order to strengthen our capacity to offer Middle East teaching rather than to reduce it. There was no reason to streamline this."

48. Issue (6d) made complaints of direct discrimination because of race and/or religion and concerned the removal of the role of admissions tutor from the Claimant in January 2022. There was no material dispute about what occurred in relation to this. Professor Tillin decide that Dr Sircar rather than the Claimant should take the role of admissions tutor. The Claimant discovered this when she logged on to the portal and found that Dr Sircar had reviewed 20 applications, while she (the Claimant) was not able to submit her recommendations. On 31 January 2022 Professor Tillin sent the Claimant an email at page 1162 apologising for not contacting her about the matter, and continuing:

"Firstly, following the various discussions you and I had at the end of last term, I felt that it was not the best moment to hand over the admissions tutor role given the close coordination required between programme convener [Dr Sircar] and admissions tutor, and how crucial (and sometimes complicated) the admissions process can be. The second reason is that

we have another admin role…… that needs a new pair of hands and I would like to invite you to take on this role instead of the admissions tutor position for the current academic year. This is the position of SSLC (staff student liaison committee) chair for the Global Institutes."

49. The Claimant replied on 1 February 2022, also at page 1162, accepting the SSLC role and saying:

"….Generally, I am thankful to you for taking my concerns about working closely/intensively with [Dr Sircar] seriously and wisely. You are right that I would feel much more comfortable with more independent administrative role. But I would have loved to get notified about this change before I discovered it suddenly after I logged onto the system."

50. The Tribunal noted that, in this email, the Claimant seemed to be content with being relieved of the admissions tutor role, in particular as it would have involved working closely with Dr Sircar (although also, and understandably, somewhat annoyed about how she had found out about this). The Tribunal found that the Claimant's wish for her work to be "streamlined" and her reluctance to work with Dr Sircar provided ample reason for Professor Tillin to decide to remove her from the admissions tutor role, and that these matters were the totality of the reason for that decision.

51. In January 2022 the Claimant became the co-ordinator of the Capstone module.

52. A further meeting between Professor Tillin and the Claimant took place on 9 March 2022, the former's note of this being at page 1174. The purpose of this meeting was a general catch-up. Some aspects of what the Claimant said were that she was looking for other jobs; that Dr Eibl was allegedly linked to a network of people who were trying to harm her career; and that she wanted to replace the Middle East core module with an optional module.

53. In addition to the Middle East, the Claimant had an interest and expertise in Latin America. She had suggested offering a Latin American module and had proposed teaching this together with Professor Pereira, then director of the Brazil Institute. It had become apparent during 2022 that the latter would not be available, and the Claimant initially agreed that she would teach the course alone.

54. On 6 September 2022 the Claimant sent an email at pages 1303-1304 to Professor Tillin asking to be relieved of responsibility for the Latin American module the following semester, as well as referring to the burden of work as the co-ordinator of Capstone. Professor Tillin replied that it was not possible to withdraw the Latin American module as students had already signed up to it. The Tribunal accepted Professor Tillin's evidence that, other than in exceptional circumstances, a module could not be withdrawn once it had been published.

55. In September 2022 the Claimant applied, unsuccessfully, for a post as lecturer in political economy. On 30 September 2022 the Claimant made a Subject Access Request for the reference that she believed Professor Tillin had given in respect of that application. Professor Tillin and Professor Herrick both expressed the opinion that this request was unusual. Somewhat later, on 3 November 2022 at page 1409, the Claimant sent an email to Professor Tillin about the interview. She said that Dr Eibl had made a remark about training in data protection, and added that he was connected with a network in Egypt that had been spying on her and conducting a campaign against her. The Claimant said that it was Dr Eibl, and possibly the IT person helping him, who needed training in data protection.

56. Issue (6e) concerned a remark allegedly made by Professor Tillin to the Claimant on 6 October 2022. This was that she (meaning she herself) never understood what "decolonisation" meant. The Claimant relied on this as an act of direct discrimination because of race and/or religion, saying in cross-examination that was intended as a criticism of her work as a teacher.

57. Professor Tillin denied making this remark. The Tribunal found as a matter of probability that she did not make it. There was no obvious reason why she would say it. Perhaps more importantly, if Professor Tillin did say this or something similar, the Tribunal could see no reason why this would have been a criticism of the Claimant (it was not suggesting that the Claimant did not understand decolonisation) nor why it should be linked in any way to the Claimant's race or religion (decolonisation being a general concept extending beyond the Arab and/or Muslim sphere).

58. The Claimant also alleged that on 6 October 2022 Professor Tillin advised her to be careful about choosing a particular colleague as a probation mentor as she was working on the topic of modernisation and religion, relying on this in issue (20c) as harassment related to religion. Professor Tillin denied saying this and stated that, rather than advising caution, she had suggested this particular colleague as a mentor.

59. As already stated, the bundle contained a number of documents prepared by the Claimant and given titles such as "General Context and Factual Background and (at pages 84-136) "Grounds of Claim and Amended Particulars of the Claim". These documents did not have the status of formal pleadings, having been produced voluntarily by the Claimant, but (so far as this Tribunal is aware) had been taken into account by EJ Fredericks-Bowyer in compiling the list of issues. Paragraph 91 of the latter document, at page 109, contained the following about this complaint:

> "….Tillin explicitly stated be careful, she works on Modernisation. The underlying message is I cannot get good mentorship due to my religion. As any social scientist knows, advocates of modernisation see religious people as traditional and they could possibly have anti-religion stance."

60. The Tribunal considered that this paragraph expressed the Claimant's belief about advocates of modernisation and whether such an individual might take an unfavourable view of her as a religious person. The Tribunal found it unlikely that Professor Tillin would have warned the Claimant in the terms alleged. We found that Professor Tillin might have told the Claimant what she believed that each of the potential mentors could offer, and might have mentioned what the particular individual concerned was working on. We found that, if Professor Tillin said things of this nature, doing so was unrelated to the Claimant's religion as she was doing no more than giving general information about the individuals being suggested. We concluded that it was the Claimant who had imported some sort of reference to religion into this conversation.

61. On 10 November 2022 a further catch up meeting between Professor Tilllin and the Claimant took place. Professor Tillin's note of this meeting was at page 1422. The note indicates that matters discussed included Dr Sircar taking over as convenor of Capstone from January; arrangements for the Latin America module, including the agreement by the new Brazil Institute module (Dr Santos) to provide some guest lectures; the Claimant's fixed term contract coming to an end in the summer of 2023; and that a position as a lecturer in Middle East would be advertised in the new year (to which the Claimant said she would not be applying). The Claimant also expressed concern about being spied on and her belief that some colleagues were colluding with others who wished to damage her career.

62. In issue (6b) the Claimant complained that at this meeting Professor Tillin dismissed her views on marking by saying that there were great discrepancies in the grades in the present year in comparison to the previous year, and that the Claimant needed to accelerate the pace of grading. This was presented as an allegation of direct discrimination because of race and/or religion.

63. In paragraph 205 of her witness statement Professor Tillin denied that marking or the pace of marking was discussed at this meeting, pointing out that on 3 October 2022 at page 1352 she had commented that the Claimant was ahead of her with her marking. When this was put to the Claimant in cross-examination, she replied that on 10 November Professor Tillin said words to the effect of "I know you are ahead of me, but you need to accelerate."

64. The Tribunal considered it unlikely that, if the Claimant was ahead of Professor Tillin in marking, the latter would have said that she still needed to go faster. Having said that, it was not impossible that something to this effect was said. If it was, the Tribunal could find nothing in the evidence to suggest that this, or a comment about discrepancies compared to the previous year, was connected with the Claimant's race or religion.

65. On 12 December 2022 the Respondent's Portfolio Review Committee recommended closure of the MA in Politics and Economics of the Middle

East as from the academic year 2024/2025 because of low numbers of students taking up the course. This would have meant that the course would have continued in the academic year 2023/2024 and would have close thereafter. In the event, it has subsequently been reprieved and was offered in 2024/2025.

66. Dr Farquhar sent an email at page 1499 to Professor Tillin on 10 January 2023 about the closure of the MA programme. Professor Tillin therefore knew about the proposed closure from this date. She said in paragraph 220 of her witness statement that the intended advertisement for a lecturer in Middle East was put on hold and that at this stage, she was still working out the implications of the closure.

67. On 17 January 2023 Professor Tillin informed the Claimant that she was being removed from the position of co-ordinator of Capstone. This was the subject of issue (6c), the allegation being that this was an act of direct discrimination because of race and/or religion. The Tribunal found that the reason for this decision was as stated by Professor Tillin, namely that in September (as described above) the Claimant had said that she was overburdened with work. Her stated preference would have been to be relieved of the Latin American module and to have retained her position with Capstone. That could not be done because the Latin American module could not be withdrawn, and could only continue with the Claimant continuing to work on it. A reduction in workload could only therefore be achieved by relieving the Claimant of her responsibilities for Capstone. The Tribunal found that this was the complete explanation for the decision.

68. Meanwhile, the Claimant had taken up her concerns about unauthorised access to and interference with her emails. On 3 October 2022 she had sent a data breach report to the Respondent's Information Compliance Team. In summary, this said that 2 emails had been deleted and/or read by someone on 26 September 2022 and that 2 emails that should have been received on 3 May 2022 had been deleted by someone. Mr Garceau investigated and reported that he had found no evidence of the account being compromised. The Claimant wrote to the Information Compliance Team again on 17 October 2022, saying that her initial report was being "dodged" and that she was not going to let the matter go.

69. There was further correspondence between the Claimant, the Respondent's HR department and Mr Macrae about her data breach concerns. It is not necessary for the Tribunal's purposes for this to be described in great detail. The Claimant was dissatisfied with the response from the Information and Compliance Team and threatened to report the Respondent's Director of Information Governance and Data Protection Officer to the Information Commissioner.

70. There was then a meeting on 15 December 2022 between Professor Herrick and the Claimant. The Claimant explained her dissatisfaction with the response she had received and Professor Herrick agreed to ask Mr

Macrae for a written report setting out what investigation had taken place and what conclusions had been reached.

71. That report, at pages 1530-1539, authored by Mr Macrae and Mr Garceau, was sent to Professor Herrick on 6 January 2023 and to the Claimant on 17 January 2023. Mr Macrae's evidence, which the Tribunal accepted, was that members of the team had between them spent at least 15 days over a period of 3 months investigating the Claimant's concerns.

72. Also on 17 January 2023 the Claimant sent an email to Professor Herrick at page 1511 in which she said that all her Microsoft accounts within the Respondent's organisation had been compromised, and that this must have been done by the IT team. The Claimant continued that she would email the Respondent's Vice-Chancellor about the matter and would complain to the Information Commissioner.

73. On 24 January 2023 the Claimant sent an email to the Information Compliance Team at page 1523 in which she referred to previous requests for messaging logs of the IT team as she suspected that unauthorised access to her accounts had occurred and was occurring. She continued:

"There are several incidents of data breach and, and I am 100% sure that the IT team have been accessing my account and leaking information about personal communications and research works. The university is obliged by law to inform the ICO about any data breach and what I have seen (so far) is wasting my time and getting around my requests with no serious and transparent investigation conducted."

74. Then on 1 February 2023 the Claimant sent an email at pages 1553-1554 to the Respondent's Vice-Chancellor (Professor Shitij Kapur) and Academic Vice President (Professor Rachel Mills). This referred to her allegations of data breaches and said: "I am writing to you as the last institutional resort can secure a serious investigation within the university before I file a report to the ICO and/or the Director of Information Governance & Data Protection Officer". The Claimant said that she had been facing harassment and discrimination in academia and that there was a network of persons using cyber spying to stop her career advance and to sustain a smearing campaign. She said that Dr Eibl was well connected with the relevant academics in America and the network of harassers in Egypt. The Claimant said that there had been no serious investigation of her complaints, and alleged that someone within the Respondent's organisation had been providing information to the network in Egypt.

75. Professor Mills wrote to the Claimant on 13 February 2023 at page 1551, saying:

"I have liaised with relevant colleagues and I believe the issues that you have raised have been fully investigated and the findings reported back to you. In addition you have had an opportunity to discuss it with relevant

colleagues. We will not be releasing the information you requested for the reasons given in the report."

76. On 27 February 2023 the Claimant made a report to the ICO against the Respondent citing data and security breaches (the source of this information being an attachment to an email sent by the Claimant on 19 October 2023, at page 1937).

77. Although matters relevant to other issues occurred during March 2023, the Tribunal will complete its account of the sequence of events concerning the alleged data breaches before turning to these. On 16 March 2023 the Claimant made a third data breach report, at page 1592, with details of emails and online activities attached. On page 1598 the Claimant wrote: "This is the third data breach report I filled to the university. Obviously, all the crimes are being committed by the IT messaging team and the complicity of the Head of Cyber Security."

78. Shortly after this, also on 16 March 2023, the Information Compliance Team sent an email to the Claimant at page 1606 by way of a reply to her third data breach report. This read as follows:

"Ticket reference #017465545 [the third data breach report] is due to be closed in 5 days' time.
Please review the closure comments below and get back to us as soon as possible if you are not satisfied.
Description: Data breach report! For the third time but with log activities this time.
Closure comments: dealt with via HR, not a db."

79. Still on 16 March 2023, and shortly after the email at page 1606, the Claimant sent a Subject Access Request to the Information Compliance team, referring to specific emails, saying that these were "all done by a third party through hacking or synchronizing my Microsoft Accounts with King's credentials". The Claimant asked for information about the senders and recipients, the content, and who encrypted the emails.

80. Issues (6f) and (11) alleged that the Information Compliance team's closure of the complaint and referring of it to HR were acts of direct discrimination because of race and/or religion. This allegation was not addressed by either party in cross-examination. On page 23 of her witness statement the Claimant said that the team's failure to address her SARs and referral of her complaint to HR "reflects a dismissive attitude potentially influenced by biases against my racial and religious background". In paragraph 98 of his witness statement Mr Macrae said the report included the observation that if further tangible developments came to light, the investigation would be re-opened. The Tribunal found that this explained the reason why the team closed the third data breach report: the team considered that they had already dealt with the matter.

81. Moving backwards slightly in the chronology, in early March 2023 there had been email exchanges between Professor Tillin and several colleagues about arrangements for the academic year 2023-2024, in the context of the anticipated closure of the MA programme, referred to above. At page 1579 on 7 March 2023 Professor Tillin wrote that it was difficult to justify hiring someone on an AEP contract (meaning, a substantially teaching role) with a Mid East focus because of student numbers. She continued: "We had a Middle East specialist [meaning the Claimant] in post for the last two years who ran the seminar……and was doing other quid pro quo teaching with PEME so their students could attend her Mid East optional module, and our students attended those running in DPE. But we are now running a Mid East optional module with just 9 students on it for eg which isn't sustainable".

82. Continuing with this aspect, Professor Tillin's evidence in paragraph 222 of her witness statement was that, following discussion, the DPE agreed that their staff would be able to incorporate MSc Global Affairs students into their seminar groups, with the result (together with the closure of the MA programme) that much of the specialist teaching provided by the Claimant would not be required.

83. The Tribunal found that these matters inevitably mean that there would be a reduction in the need for teaching cover for Middle East subjects in the academic year, and consequently a reduction in the need for the specialist teaching provided by the Claimant.

84. A further matter arising in March 2023 was the subject matter of issue (29a). This was a complaint of victimisation, the alleged less favourable treatment being a failure by Dr Knoerich to provide the Claimant with a reference. In the event, it was common ground between the parties that this pre-dated the protected act relied on, and so could not amount to a viable complaint of victimisation.

85. The Tribunal has already referred to discussion in November 2022 between the Claimant and Professor Tillin about the possibility of making use of guest lecturers for the Latin American module. Dr Andreza Santos, who was at the time teaching at Oxford, was due to join the Respondent as the new Director of the Brazil Institute, and agreement was reached for her to deliver some teaching on the module in March/April 2023.

86. There followed email exchanges between the Claimant and Dr Santos at pages 1641-1647 over the period 20-22 March 2023. It is not necessary to set these out in full, but the Tribunal found that the Claimant's tone in these became abrupt and discourteous, particularly bearing in mind that Dr Santos was new to the Respondent's organisation at the time. In response to a question about slides for the course, the Claimant wrote "I am beyond busy from today until Monday next week and cannot take care of any logistics related to the module". In answer to a further query the Claimant wrote "You initially asked whether I can upload the slides…..I did answer the question given the fact that you have an affiliate account on [the

relevant system] and enrolled on the page in your capacity as the new director of KBI and the second marker of the module."

87. On 22 March 2023 the Claimant sent an email stating that she had uploaded the relevant readings onto the system "which was time-consuming but that's because you did not have access." She continued, "Please upload the slides….as you agreed with students in the lecture. We usually upload the slides a few days ahead of the lecture day." Dr Santos replied saying that she had not been told the time of the class she was to take, and that she had needed someone to introduce her to the building, which Professor Tillin had done as the Claimant had not been available.

88. These exchanges came to the attention of Professor Herrick and Professor Tillin, who held a meeting with the Claimant on 24 March 2023. This meeting was the subject of issues (15b) and (20d), involving complaints of harassment related to race and/or religion.

89. Professor Tillin made a note of the meeting at pages 1650-1651. This note began with the words "Purpose of meeting: to issue a warning about conduct following (1) uncollegial emails with inappropriate tone to new member of staff guest lecturing on module and (2) continued requests regarding investigation of data breaches, subject access requests, etc." In oral evidence in answer to EJ Glennie, Professor Tillin said that the original intention was to give the Claimant a warning. In answer to the Claimant, Professor Herrick said that she did not come to the meeting with any pre-determined decision. The Tribunal found that little turned on this particular difference between Professors Tillin and Herrick.

90. The Claimant's substantive complaints about the meeting were set out in the 5 sub-paragraphs in issue (15b). Sub-paragraph (i) stated that Professor Herrick threatened the Claimant with referral to a disciplinary committee should she continue to raise the data breach matter. Whether or not what Professor Herrick said about this should correctly be described as "threatening", there was no dispute that she said that the Respondent had thoroughly investigated the Claimant's allegations and that her repeated requests for the same information should therefore stop. There was also no dispute that Professor Herrick said if the Claimant continued to behave in an unacceptable way, that might have to be dealt with by way of a formal disciplinary process. The Tribunal therefore found that the essential factual elements of sub-paragraph (i) were established.

91. Sub-paragraph (ii) asserted that Professors Tillin and Herrick made allegations of non-collegial and non co-operative behaviour by the Claimant towards Dr Santos. It was apparent from Professor Tillin's note of the meeting that they did make such an allegation. The note recorded that the Claimant was challenged about the "unprofessional" tone of her emails; that she responded that she had not crossed any line of professionalism and was responding to what she felt were inappropriate emails; and that Professors Tillin and Herrick said that this was not their interpretation.

92. Sub-paragraph (iii) contained the allegation that Professor Herrick looked at Professor Tilllin smiling and said "we had a totally different marking criteria at the Global Institute" and that this amounted to mocking of the Claimant's marking objectivity. Professors Herrick and Tillin denied that this was said. The Tribunal found as a matter of probability that it was not. As described above, there had been an issue about marking in October / November 2021, but this was no longer live in March 2023. It was not part of the intended subject matter of the meeting, and the Tribunal could see no reason why Professor Herrick would raise it again at this point, in particular as it had not been a disciplinary issue. Furthermore, if (contrary to the Tribunal's finding) this was said, it was not apparent why the recorded words should be understood as mocking the Claimant.

93. In her oral evidence about sub-paragraph (iv) the Claimant said that she understood that she was being accused of bullying and harassing Dr Santos and the Information Compliance Team because she was told that her language was inappropriate and rude and because she was sent a copy of the Respondent's bullying and harassment policy with the letter giving the outcome of the meeting.

94. The Tribunal did not consider that telling the Claimant that her language was regarded as inappropriate and rude amounted to accusing her of bullying and harassment. Taken at face value, what was said meant that Professors Herrick and Tillin regarded her language as inappropriate and rude. In the Tribunal's judgement, this was a view that they could reasonably take, given the tone of the email correspondence with Dr Santos and the repeated requests for the same information from the Information Compliance team and the repeated threats to take the matter further, whether internally or externally.

95. The Tribunal considered that sending a copy of the bullying and harassment policy might be seen as implying that the Claimant had committed acts of bullying or harassment, or as a warning that she should be careful not to do so. Either could be a fair interpretation.

96. Sub-paragraph (v) alleged that Professors Tillin and Herrick "gaslit" the Claimant into believing that the evidence she provided for email hacking was nonsensical. (The Tribunal understood "gaslighting" as meaning something like trying to convince someone that their correct understanding of a situation is in fact illogical or even delusional).

97. Professor Tillin's note recorded that Professor Herrick said that a thorough report had been undertaken and reviewed by Professor Mills, and that there was concern about the tone and content of the Claimant's emails. The note continued that Professor Herrick "underlined that King's has investigated the matter thoroughly, that repeated requests for the same information should stop. And if she has now lodged a case with the ICO that she should let that play its course and ensure that she makes it clear in requests for SARS that this is connected to an ICO case."

98. Although the Tribunal would not attach too much significance to a failure by a litigant in person to cross-examine on a particular point, there was no challenge to the accuracy of Professor Tillin's note of the meeting on 24 March 2023, and we found that it was a fair summary. The Tribunal found with regard to sub-paragraph (v) that Professor Herrick said that the matter had been investigated and could not be pursued any further internally. That did not involve any value judgement by Professor Herrick or Professor Tillin about the validity or otherwise of the Claimant's complaints: they did not have the expertise in IT matters to make such a judgement. Their stance was purely that the matter could not be taken any further within the Respondent's organisation, and that the Claimant should therefore cease pursuing it internally.

99. In relation to all 5 allegations within issue (15) the Tribunal found that the reasons that Professors Herrick and Tillin had for acting as they did were those that appeared on the face of the matter. Under sub-paragraphs (i) and (ii), what was said was a straightforward response to the Claimant's conduct and reflected concerns about it. The factual basis of sub-paragraph (iii) has not been established. What was said in relation to sub-paragraphs (iv) and (v) also amounted to a straightforward response to the Claimant's activities. Professors Herrick and Tillin criticised the tone and content of the Claimant's emails because they thought they were inappropriate, and sent a copy of the bullying and harassment policy because they believed it was relevant. Professor Herrick said that the data breach had been thoroughly investigated and could not be taken any further internally because that was what she believed.

100. The Tribunal noted that towards the end of the meeting Professor Tillin said that the Claimant needed to be careful that her increasing activity on the cyber front did not start to undermine her ability to do her job, and that there was some evidence that this had started to happen. Professor Tillin's note also recorded that the meeting ended with the Claimant refusing to accept that she had been unprofessional, and that before leaving she said that people at King's needed diversity training to know how to work with a Muslim woman wearing a headscarf. When cross-examined about this meeting, the Claimant said that Professors Herrick and Tillin would not have dealt with a person of a different race or religion in the same way and that she believed that she was treated as she was purely because of her Arab race and/or Muslim religion.

101. On 28 March 2023 Professor Herrick sent a letter to the Claimant at pages 1662-1663. This was headed "Summary of Guidance Meeting" and referred to the meeting on 24 March as an informal guidance and advice discussion. The letter summarised the meeting and included the following: "…..should there be a repeat of this conduct, or any other misconduct, it may be necessary to investigate this formally under the university's Academic Staff Disciplinary Regulation. As noted above, a copy of the bullying and harassment policy was enclosed.

102. The Claimant sent an email and attachment at pages 1669-1675 on 31 March 2023 to Professors Herrick and Tillin, copied to Professor Mills and Ms Adair of HR. In the email the Claimant said that she had been deceived into attending a grievance meeting on disciplinary allegations without prior notice and without proper procedures being in place. She said that the outcome had been based on baseless allegations without an investigation.

103. The Claimant continued: "The meeting was so intimidating and deceiving, and I will report it as an incident of not only bullying and harassment and abuse of power, but it also violated equality and diversity policies. It is obvious that I have been discriminated against due to (primarily) my religious beliefs and (possibly) my racial background." The Claimant referred to her previous experiences at Stanford University and said that King's was doing harm to her career and "contributing to the defamation campaign". She attached a document setting out her dissenting comments about the subjects covered in the meeting. This was headed "To the Appeal Panel".

104. Also on 31 March 2023 at page 1682-1683 the Claimant submitted via the Respondent's Employee Relations Portal a complaint of discrimination, harassment, bullying and gaslighting behaviours arising from the 24 March meeting. She identified religion or belief, race/ethnicity and nationality as factors that had played a role in what she had experienced.

105. Although the list of issues identified the date as 2 April 2023 rather than 31 March, the hearing proceeded on the understanding that the Claimant was relying her email of the latter date and the portal complaint as protected acts for the purposes of her victimisation complaint.

106. Issue (6g) made a complaint that Ms McLarty, Ms Kelly and Ms Rehinsi (misspelt as Ms Rheins) of the Respondent's HR team failed to give careful consideration to the Claimant's harassment and discrimination reports in that they failed to conduct an investigation, hold a hearing or produce a report according to the disciplinary and grievance procedure. This was a complaint of direct discrimination because of race and/or religion, and was dated 6 April 2023. Issue (6h) was in similar terms, but with reference to Ms Adair, the Respondent's Head of HR, with the additional words "referred the Claimant to her complaint with the police regarding the online harassment and the data breach" and gave the date 26 April 2023.

107. On 4 April 2023 Ms Adair sent an email to the Claimant at page 1697 in which she wrote: "……I can see that the meeting Clare and Louise held with you was an informal meeting, as such there is no right of appeal. I note that you have sent a statement and I'm sure Louise will keep this on file together with the letter that was sent to you outlining your manager's concerns as a record of everyone's recollection of the discussion." She then continued with some more general observations about receiving negative feedback and the purpose of informal conversations.

108. The Claimant made a further report via the Employee Relations portal on 5 April 2023 about the alleged misuse of her email account. She referred to Dr Eibl, the network in Egypt, and the Cyber-Security team's investigation. She identified race/ethnicity and being a woman as relevant factors.

109. On 6 April 2023 Ms Rehinsi sent an email to the Claimant at page 1714 in which she wrote: "……I now understand that my line manager, Lorna Adair, has responded to your email and the matters that you have raised. Given Lorna's email to you, we will now close the complaint that you submitted via the Report + Support portal". On the same date Ms McLarty then emailed the Claimant and Ms Kelly, copied to Ms Rehinsi, at page 1718. The Claimant responded to this, referring to Ms Rehinsi's email and stating that the issue of an appeal had nothing to do with the report of harassment and bullying. Ms McLarty and Ms Rehinsi then sent separate emails to the Claimant, copying in each other, Ms Kelly and Ms Adair, saying that the last named would respond to the Claimant.

110. Ms Adair sent an email to the Claimant on 12 April 2023 at page 1719. She referred to the report made on 31 March 2023 via the portal and wrote as follows:

> "Although, as previously advised, there is no right of appeal regarding the informal discussion they had with you, I note your concerns about their approach and how you felt about that. I would therefore encourage you to speak to Louise and Clare about this so that they understand how you feel about the approach they took. If you feel they didn't give you an opportunity to respond to the concerns they were raising with you, you can request a meeting to allow you to do that and also to raise with them the workload issues that you refer to in your report.
>
> "If you don't feel able to speak to Louise and Claire, then you can make contact with [Professor Herrick's manager] to discuss your concerns with her.
>
> "If you are a member of the trade union, you may also wish to contact them for support and advice."

111. The Claimant replied on 13 April 2023, also at page 1719 as follows:

> "Thanks for your response. I just had a meeting today with the CUC Rep. I sent him some documents to go through before we decide on the next step.
>
> "I am not able to speak to Louise or Clare at this point as I explained everything in the 'informal meeting'. I will go through the official grievance but I will need to coordinate it with the trade union to advise on the procedure."

112. Ms Adair wrote again to the Claimant on 26 April 2023 at page 1733 apologising for the delay and saying:

"I'm aware that cyber security completed an investigation and that following that this was escalated by you to Rachel Mills, Senior Vice President Academic.

"Rachel responded to you on 13th February 2023 to advise you that the issues you had raised have been fully investigated and the findings reported back to you. That remains the position and on that basis the process is concluded and we consider the matter to be closed.

"I note you have reported your concerns to the police and I'm confident they will respond in due course as required."

113. With regard to issues (6g) and (6h), the Tribunal did not hear evidence from any of Ms Adair, Ms McLarty, Ms Rehinsi or Ms Kelly. We found, however, that it was fairly clear from the correspondence what had happened. Ms Kelly was copied in to the emails, but did not take any active part in the exchanges. Ms Rehinsi and Ms McLarty were both junior to Ms Adair in the HR function. They could see that Ms Adair was dealing with the matter, which was complex and sensitive, and (understandably, in the Tribunal's judgement) deferred to her. They did not therefore address the allegation of discrimination. The Tribunal found that this was because they did not address the substance of the complaints at all, leaving doing so to Ms Adair. There was nothing in the evidence which suggested any connection between this and the Claimant's race or religion.

114. Ms Adair addressed the substance of the complaint about the 24 March meeting by saying that there was no appeal available from that. She addressed the substance of the complaint about the cyber security investigation by saying that the matter had been fully investigated and reviewed and was now closed. She did not, therefore, specifically address the allegations of discrimination in relation to both elements.

115. Although, as already noted, Ms Adair did not give evidence at the hearing, the Tribunal found that it was apparent from her part in the email correspondence that she considered that both aspects had been brought to a conclusion and could not or should not be taken any further internally. We further considered that Ms Adair might have thought that this was sufficient to deal with the allegations of discrimination, or might have overlooked dealing specifically with those in what was a complicated scenario. There was, however, nothing in the evidence which suggested that omitting to refer to those allegations was in itself done because of the Claimant's protected characteristics. In the Tribunal's judgement, it would not make sense for Ms Adair to have told the Claimant that both aspects were closed, but to have discriminated against her by failing to address the allegations of discrimination specifically.

116. On 2 May 2023 Professor Tillin sent a letter at page 1735 to the Claimant, stating that her fixed-term contract would expire on 31 August 2023. The Claimant was invited to a consultation meeting on 11 May 2023 with Professor Tillin and Ms Rehinsi. At the meeting pro-forma at pages 1773-

1775 was completed. Under the section headed "Options for fixed term contract expiry, Professor Tillin included the words: "There is no longer a business need for a post focused on the Middle East in the Global Institutes. Student numbers are too low to justify an additional Middle East optional module within the Global Institutes. In addition, the expected closure of MA Politics and Economics of Middle East has removed the need for a reciprocal arrangement with this programme and the MSc Global Affairs". Professor Tillin recorded that the current contract would not be renewed and that she was not aware of any current or anticipated suitable vacancies within the Global Institutes or School of Global Affairs. It was recommended that the Claimant look at the Respondent's HR website for redeployment opportunities. The Claimant stated that she wished to be considered for alternative employment. The section headed "date of next meeting (if applicable) was endorsed "N/A".

117. There was a dispute about whether or not the Claimant said at this meeting that she did not want her contract to be extended. The Tribunal considered that this was of little significance, given the Respondent's clear stance that it was not going to be extended in its existing form.

118. The Claimant was sent a letter on 15 May 2023 from Professor Tillin at pages 1778-1779 which confirmed that her role would come to an end on 31 August 2023 and that she would be entitled to a statutory redundancy payment. The reason for the role ending was identified as there being no ongoing business need for the position. The letter stated that there was a right of appeal against the decision to terminate the contract.

119. On page 65 of her witness statement the Claimant referred to the contractual provisions about notice of termination, to be found on pages 778 and 779. The relevant elements are the following:

"This contract may be terminated by…….the College giving not less than three months' notice in writing addressed to you……
"If you are appointed on a fixed-term contract, your employment may be terminated by the College on giving notice as described above.

"Any termination with notice paid in lieu will take effect as soon as written notice to that effect is given by the College to you (or such later date as may be specified in the notice)"

120. The Claimant continued by referring to emails between herself, the payroll team and Professor Tillin during the period 12-14 July 2023 at pages 1799-1801. These began with the Claimant asking the payroll team to confirm the amount of the severance payment she would be receiving. The payroll team replied that they could not "process your contract expiry" until they had received confirmation from the Claimant's line manager. The Claimant sent a copy of her contract and the payroll team replied that they could not process her severance until they had received confirmation from her line manager. The Claimant then contacted Professor Tillin, who responded

saying that "People XD" had been updated with the Claimant's contract expiry information and that this should therefore be with the payroll team.

121. The payroll team sent the Claimant an email on 11 August 2023 at page 1825. This included the following:

"This notification is sent further to previous correspondence to advise that the fixed term contract which you are employed on will expire as it has not been possible to secure a reappointment. Your employment at King's will therefore end on 31-AUG-23.

"As you have been employed by King's for 2 years or more and the reason for the expiry is redundancy, you are eligible for a severance payment…….

"If you would like to request a review of the decision to terminate your employment due to redundancy, please email the Director of HR……"

122. On page 65 of her witness statement, the Claimant relied on the email of 11 August 2023 as the written notice of termination of her employment, arguing that she had therefore received only 20 days' rather than 3 months' notice. The Tribunal considered that the payroll team's reference in their email to "processing the contract expiry" was somewhat obscure, and that the expression "processing the severance" while clearer when considered on its own, could be understood as referring to something different from the expiry, namely the severance payment. We also found, however, that Professor Tillin's letter of 15 May 2023 clearly stated that her role would come to an end, and that her contract would be terminated, on 31 August 2023. The Tribunal will explain its conclusions as to the legal consequences of these findings later in these reasons.

123. Issue (29b), which was unrelated to the contractual matters just discussed, contained a complaint that on around 14 July 2023 Professor Ikpe failed to provide the Claimant with a reference in connection with a job application. This was said to be an act of victimisation, the protected acts being the Claimant's reports of 2nd April 2023.

124. The Claimant's email to Professor Ikpe asking for a reference was at page 1790. Professor Ikpe neither replied to this, nor provided a reference. When cross-examined about this, she said that she was unable to respond within the time requested, and so did not respond at all. She also said that she did not recall any conversation with the Claimant about a meeting with Professors Tillin and Herrick, and did not recall the Claimant saying that he had complained of discrimination and harassment. In answer to Ms Shaah, Professor Ikpe said that she guessed that she could have got back to the Claimant and said that she had missed her email, and that although perhaps she should have done so, equally the Claimant could have come back to her. In answer to Mr Greenland, Professor Ikpe said that she had not been aware of any complaints of discrimination or any grievance until she was contacted in relation to the Tribunal process in March 2024.

125. The Tribunal accepted Professor Ikpe's evidence on the last point. There was no reason why she should have been aware of the Claimant's complaints: one would not expect any of Professors Tillin or Herrick, or the HR team, to reveal information about them. The Tribunal found that Professor Ikpe's evidence that she did not recall the Claimant telling her about her complaints meant that, to the best of her recollection, the Claimant did not tell her. Again, there was no reason why the Claimant should have done so.

126. The Tribunal therefore found that Professor Ikpe did not know about the Claimant's complaints when she did not provide a reference, and that therefore the complaints cannot have played any role in her failure to provide it.

127. On 17 August 2023 the Claimant raised a grievance at pages 1842-1845, naming Professor Tillin and Professor Herrick. The Claimant said that the non-renewal of her contract was an act of discrimination and that the Respondent had not investigated her formal grievances. She referred to the meeting on 24 March 2023 (although giving the date as 22 March) and said that she had been overloaded with teaching and other responsibilities, to the detriment of her research work. The Claimant referred to her receipt of the email of 11 August 2023 from the payroll team, and said that it had been confirmed that the MA in Politics and Economics of the Middle East was continuing in the forthcoming academic year.

128. The Claimant's employment ended on 31 August 2023. Under issue (3) the Claimant complained that she was unfairly dismissed and dismissed in breach of contract. Under issues (6i) and (12) the Claimant identified her dismissal as an act of direct discrimination because of race and/or religion. The Tribunal will set out its conclusions on these complaints below.

129. Professor Tillin sent an email to the Claimant on 31 August 2023 at page 1860. This read as follows:

> "This is just a short note as today is your last day with King's. I'm sorry not to have seen you in person to say goodbye. I've been away and only just back in London, but I wanted to say thank you for all your contributions over the last two years and for your work in supporting students. I hope that your next steps from here go well."

130. Issues (15c) and (20e) complained that this email was an act of harassment related to race and/or religion. On page 43 of her witness statement the Claimant said that "this seemingly polite message was laden with pretence and further exemplified the discriminatory treatment I had faced". She further explained this, including that Professor Tillin had failed to support her efforts to find a job in the UK and was well aware that making her redundant would render it difficult for her to obtain employment in the future. The Claimant said that the relationship with Professor Tillin was far from cordial, making the apology for not giving a farewell in person disingenuous and patronising. She said that the email showed a disregard

for the grievance process; that the superficial politeness masked an underlying dismissive attitude; and that the suggestion that she should be grateful for the opportunity with the Respondent played into harmful stereotypes about the expectations placed on minority academics.

131. When cross-examined about this aspect, the Claimant said that Professor Tillin would not have sent this email to a non-Arab or non-Muslim colleague, and that if she herself had a bad relationship with someone, she would not send something like this.

132. Professor Tillin's evidence, in paragraph 299 of her witness statement, was that the email was sent in good faith, and that she was unaware of the Claimant's grievance until she received an email about it at page 1865 on 5 September 2023.

133. The Tribunal accepted Professor Tillin's account of this email. We found it to be nothing out of the ordinary, and the sort of farewell message that a manager might send to a departing colleague. We found that what the Claimant said about it indicated how she felt about the relationship with Professor Tillin and about the ending of her employment, but did not reflect Professor Tillin's intentions in sending it The Tribunal found that Professor Tillin's reason for sending the email was that she considered that it was an appropriate and polite way of saying goodbye to the Claimant.

134. The claim was presented on 23 September 2023, following the ACAS early conciliation process between 17 August and 18 September.

135. Issues (15f), (20f) and (20h) related to the grievance investigation. Issue (15f) contained 4 sub-paragraphs concerning Professor Herrick's statement to the investigation and complained of harassment related to race. Issue (20h) referred in terms to the same complaints about Professor Herrick's statement, as harassment related to religion. Issue (20f) also complained of harassment related to religion, referring to "the manner in which the Respondent dealt with the Claimant's grievances as alleged at para (15f). The Tribunal concluded that issues (20f) and (20h) covered the same ground.

136. Mr Norman conducted the grievance investigation. Professor Tillin made a statement on 4 October 2023, at pages 2240-2245. This was not the subject of any of the issues, but the Tribunal noted that at page 2244 Professor Tillin said:

> "Usually when a fixed term contract expires we do not hold a consultation meeting, but given the issues in SH's case, Clare Herrick and I consulted with the ER team for advice about how to manage the end of the FTC. Jess Rehinsi supported us in managing the end of the fixed term contract and attended the consultation meeting with SH. Would not normally do this, but the ER team felt it was necessary to have the meeting concerning the redundancy of the role."

137. Professor Herrick made her statement on 5 October 2023. The record of this, which was the material on which the Claimant based her complaints in tis regard, was at pages 2246-2248.

138. In sub-paragraph (i) of issue (15f) the Claimant complained of Professor Herrick saying that she was "sending emails to everyone". Those precise words were recorded as said by Professor Tillin in the notes of her statement at page 2243, but Professor Herrick said something much the same, i.e. "Sometimes SH sends emails to everyone even Rachel Mills…" Professor Herrick then said, as also complained of in sub-paragraph (i) "This has been SH's pattern since joining KCL and has been a challenge to manage."

139. In her oral evidence on this aspect the Claimant agreed that she had emailed people about security breaches, and said that she was not doing anything wrong. She said that it was being suggested that she was "doing something haphazard".

140. Professor Herrick was not cross-examined about this aspect. Given that the Claimant is a litigant in person, the Tribunal did not take this as meaning that the Claimant accepted or agreed with that evidence. In paragraph 281 of her witness statement Professor Herrick said that the Claimant would be in communication with multiple people about the same issue or making the same requests. The Tribunal considered that the expression "sends emails to everyone" was a turn of phrase intended to convey that the Claimant sent emails to many people, and to more people than Professor Herrick considered necessary. Similarly, the expression "the pattern since joining KCL" was, in the Tribunal's judgement, a way of conveying that the problem was longstanding, rather than meaning that this had happened from day 1. We found that Professor Herrick was describing the situation as she saw it, and that the expressions she used were reasonable in the circumstances.

141. Sub-paragraph (ii) complained that Professor Herrick "denied the right of the Claimant to send an email to the higher manager to redress grievances…" In her oral evidence the Claimant agreed that Professor Herrick had not prevented her sending emails, and explained that what she meant by this was that Professor Herrick was implying that she should not have sent them. The Tribunal found that, in saying "sends emails to everyone even Rachel Mills" Professor Herrick was indeed suggesting that the Claimant should not have done this, but also that she was again describing the situation as she saw it and in a legitimate way.

142. In sub-paragraph (iii) the Claimant complained that Professor Herrick accused her of being "paranoid about [Dr Eibl and Dr Farquhar] but it was never clear exactly what they had done, and she never made any concrete allegations." When it was put to the Claimant that what Professor Herrick had said about this was substantially true, she denied that. Professor Herrick's evidence, in paragraph 282 of her witness statement, was that the Claimant's allegations have remained unsubstantiated and vague. The

Tribunal found this to be a reasonable comment: in sub-paragraph (iii) the allegation concluded with the words "an integrated investigation could have provided clear and straightforward evidence on the unauthorised access to my account and how and who accessed the Claimant's Skype account to make a call to an Egyptian number." We found that, although the Claimant suspected her two colleagues, her allegations were based on those suspicions rather than substantial evidence. Again, Professor Herrick was describing the situation as she genuinely saw it.

143. In sub-paragraph (iv) the Claimant complained of the words "I think this is all linked to SH's broader paranoia which could make her difficult to manage and often distracted her from her work", saying that this was undermining her high performance. The Tribunal understood that the Claimant might find the reference to paranoia objectionable, but Professor Tillin had said at the 24 March 2023 meeting that there was some evidence that the Claimant's activities in relation to data breach issues were beginning to undermine her ability to do her job. As with the other sub-paragraphs, the Tribunal found that Professor Herrick was describing the situation as she believed it to be. We considered that it was a reasonable observation in the circumstances to say that the Claimant's data breach concerns could make her difficult to manage.

144. Mr Norman produced a grievance report dated 29 November 2023 at pages 2217-2224, plus appendices. This was the subject of issues (15e) and (20g), which complained that Mr Norman accused the Claimant of making allegations against colleagues "due to their political views". This was put as a complaint of harassment related to race and/or religion. Under issue (20g) it was said that Mr Norman said that the Claimant made "baseless and uncorroborated allegations". What he in fact wrote, at page 2221 was:

"The investigation also found that there are unsubstantiated allegations made by Ms Hatab against members of KCL staff due to their political views in the evidence submitted".

145. In paragraphs 15 and 16 of his witness statement Mr Norman said that whether or not the Claimant's colleagues were involved in a network of people who were harassing her, and whether or not there was any merit in her allegations, was not within the remit of his investigation. He therefore did not follow up what she said in this regard, and did not give a great deal of thought to what she was saying about this. In paragraph 18 Mr Norman said that he had not made the wording in his report completely clear, and that what he meant was not that the Claimant had made the allegations because of the colleagues' political views, but rather that she thought without good reason that the colleagues were politically motivated against her.

146. As already noted, it was not correct to say that Mr Norman described the Claimant's allegations as "baseless" or "uncorroborated". He said that they were "unsubstantiated". This can have a more neutral meaning, although in this case, Mr Norman said in his witness statement that the Claimant

thought as she did "without good reason", which was not entirely consistent with his also saying that he did not give a great deal of thought to this.

147. In cross-examination the Claimant put it to Mr Norman that he had a prejudiced view of Arabs making allegations based on political views and/or of minority academics making allegations against white colleagues. Mr Norman denied both of these suggestions, saying that he took the evidence as it was. He said that there was no proof of the allegations. The Tribunal noted that Mr Norman also recorded that the Claimant had made similar allegations while at Stanford University.

148. The Tribunal considered that allegations that individuals were allied with or acting in concert with Egyptian state actors could be regarded as a broadly political matter. We found that what Mr Norman wrote about the Claimant's allegations reflected his view of them as they were presented to him, including in the light of there having been similar allegations made in respect of another university. We accepted that Mr Norman was not influenced by any prejudice about the Claimant's race or religion.

149. Finally in relation to matters of evidence and fact, Mr Fitzpatrick concluded his submissions by asking the Tribunal to make findings, to the extent that we might feel able, as to whether Dr Eibl, Dr Farquhar or others have in fact colluded with the Egyptian security services. This was not an issue to be determined by the Tribunal, and we have made no decision on it as such. We will, however, record that there have found no evidence that either Dr Eibl or Dr Farquhar has done anything adverse to the Claimant's interests.

The applicable law and conclusions

150. The Tribunal has set out its findings of fact above largely, although not exclusively, in chronological order. In this section of these reasons, we will return to the list of issues and address the claims in the order in which they appear there, and so not chronologically.

Unfair dismissal

151. Section 98 of the Employment Rights Act 1996 includes the following provisions:

> *(1) In determining……whether the dismissal of an employee is fair or unfair, it is for the employer to show –*
>
> *(a) The reason (or, if more than one, the principal reason) for the dismissal, and*
> *(b) That it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.*
>
> *(2) A reason falls within this subsection if it –*

(c) Is that the employee is redundant.

(3) ……

(4) Where the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) –

(a) Depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and
(b) Shall be determined in accordance with equity and the substantial merits of the case.

152. Section 139 of the Employment Rights Act makes the following provisions about redundancy:

(1) For the purposes of this Act an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to –

(a) ……..
(b) The fact that the requirements of that business –
(i) For employees to carry out work of a particular kind, or
(ii) For employees to carry out work of a particular kind in the place where the employee was employed by the employer,
have ceased or diminished or are expected to cease or diminish.

153. The Tribunal first considered the issue of the reason for the dismissal, reminding itself that the burden is on the Respondent to establish this. As set out in our findings of fact, we found that the intended closure of the MA programme and the DPE's agreement to take over the teaching of the Middle East module in the MSc course mean that the requirements of the Respondent's business for employees to carry out work of a particular kind (namely, teaching on Middle East subjects) were expected to diminish.

154. This is not to say that the requirements for such work were expected to disappear altogether. The MA programme was due to continue in the academic year 2023-2024, and has in the event continued beyond that. Perhaps the more significant consideration, however, was that the DPE was able to take on board the teaching being done by the Claimant on the Middle East. There was therefore an expected diminution in the need for employees to carry out the work that the Claimant did.

155. Although this was not a point taken by the Claimant, the Tribunal members asked Professor Tillin whether conduct or performance were factors in the decision to dismiss. Professor Tillin's evidence, which we accepted, was that had the contract continued, there would have been a need to look at this aspect separately, but that it was not a consideration at the time.

156. The Tribunal therefore found that the Respondent had established that the reason for the Claimant's dismissal was redundancy. We then considered the issue of fairness, reminding ourselves that the relevant standard is that of reasonableness, not perfection.

157. In her closing submissions the Claimant made 6 points about the complaints of unfair dismissal and breach of contract. These reflected issues (3b i-vi). The first was a contention that there was no genuine redundancy. The Tribunal has found that there was, as explained above. In connection with this, the Claimant asserted that she was misinformed when told that her course was being discontinued. It was in fact intended that the course would be discontinued, although not until the next academic year but one. In the event, the course continued in that year. None of this means, however, that it was misleading or unfair to say that the course was going to be discontinued: that was the Respondent's intention at the time.

158. The second and third points were that the Claimant contended that she was not informed of the possibility of redeployment and that the Respondent did not take reasonable steps to redeploy her. The Claimant clearly was informed of the possibility of redeployment in principle in that she was advised to look at the HR website for that purpose. There is no suggestion that there was any particular redeployment opportunity which was kept from the Claimant, or that she could have pursued had she been made aware of it.

159. The Claimant's fourth point was that the contractual notice period was breached. This was relied on as an aspect of unfairness and as the breach of contract complaint.

160. As noted above, the contractual provision was for 3 months' notice. The Claimant contended that notice of termination of her contract was given on 11 August 2023 in the letter from the payroll team at page 1825. The Tribunal found that notice was in fact given by Professor Tillin's letter of 15 May 2023 at pages 1778-9, for the following reasons:

    160.1 The 15 May letter stated that the role would come to an end on 31 August, that the Claimant would be entitled to a redundancy payment, and that there was a right of appeal. The Tribunal considered that this clearly stated that the Claimant's employment was to terminate, when this would occur and what her entitlements were. There was nothing missing that would be essential to a notice of termination.

    160.2 Although the 15 May letter said that payroll would send further information about the redundancy payment in due course, that did not in the Tribunal's judgement mean that the notice period did not begin to run until that had been provided. An employee would not need to know the amount of the redundancy payment in order to be

aware that they had been given notice under their contract of employment.

160.3 The 11 August letter described itself as being "further to previous correspondence", which was inconsistent with it being the initiation of the notice period.

161. It also appeared to the Tribunal that the Claimant had confused the concept of being paid in lieu of notice (referred to in the contract) with that of the notice period itself. The former involves the employee not continuing in employment during the notice period, which was not the case for the Claimant.

162. Point 5 was a contention that the Claimant was denied the right to appeal based on new information about the closure of the Middle East programme. Both the 15 May letter and the 11 August letter referred to the right to appeal. The Claimant did not identify any attempt to appeal which was ignored or refused.

163. The sixth and final point was that there was a failure adequately to consult the Claimant. The Tribunal noted from the chronology above that Professor Tillin had been aware of the proposal to close the MA course from January 2023 onwards. We considered that this did not, however, mean that it was unreasonable for consultation not to have started earlier than May. An employer might have warned the Claimant about the prospect of termination of her contract at an earlier date than May, but in the Tribunal's judgement it was not unreasonable to proceed then. We accepted that it would take some time to assess the implications of the closure, and noted that these were still under discussion in March 2023. Also (as has been demonstrated by the reprieve for the course) circumstances can change, meaning that a reasonable employer could decide not to proceed with consultation earlier than necessary.

164. There was only one consultation meeting, and as the pro-forma indicated, it was possible that more than one could take place. It was difficult to see, however, what the purpose of a further meeting might have been. The Tribunal agreed with Mr Fitzpatrick's submission that it was not apparent what the subject matter of further consultation might have been. The Respondent's position about the reduced need for work of the type done by the Claimant did not change between May and August 2023, nor did any opportunities for redeployment arise.

165. Having considered all of the above issues, the Tribunal concluded that the Respondent acted reasonably in deciding to dismiss the Claimant, and that the complaint of unfair dismissal therefore failed.

Breach of contract

166. The Tribunal has addressed the substantive issue in the breach of contract claim in the course of its reasons concerning the unfair dismissal complaint.

We have found that the Claimant was in fact given the appropriate contractual notice of 3 months. The breach of contract complaint therefore failed.

Direct discrimination: race and/or religion or belief

167. When considering all of the complaints under the Equality Act 2010, the Tribunal had in mind section 136 of the Act, which makes the following provision about the burden of proof:

(2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.

(3) But subsection (2) does not apply if A shows that A did not contravene the provision.

168. In **Efobi v Royal Mail Group [2021] ICR 1263** the Supreme Court confirmed that the two-stage approach identified in relation to the previous anti-discrimination legislation in **Igen v Wong [2005] ICR 931** and **Madarassy v Nomura [2007] ICR 867** remained valid under the Equality Act. At the first stage, the burden is on the claimant to prove, on the balance of probabilities, facts from which the Tribunal could properly conclude, in the absence of an adequate explanation, that an unlawful act of discrimination had occurred. At this stage, a difference in protected characteristic and a difference in treatment alone would not, without more, be sufficient. There would have to be something else (which might not in itself be very significant) to provide the basis of such a finding. If such fact are proved, the burden is on the respondent to explain the reasons for the alleged discriminatory treatment and satisfy the tribunal that the protected characteristic had played no part in those reasons.

169. Section 13 of the Equality Act provides as follows in relation to direct discrimination:

(1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat another.

170. This involves an exercise in comparison. The comparison may be with an actual person (the Claimant relied on Dr Sircar, although the Tribunal did not find this to be a particularly relevant comparison) or a hypothetical comparator.

171. Before turning to the individual issues, the Tribunal will record two submissions made by Mr Fitzpatrick which we found to be of some significance. One was that it was improbable that the sheer number of individuals in different roles within the Respondent would discriminate against the Claimant because of her race and/or religion, harass her for reasons related to her race and/or religion, or victimise her for raising

complaints related to those characteristics. The Claimant's allegations are against her line manager Professor Tillin and the latter's manager Professor Herrick; her colleagues Dr Eibl, Dr Sircar and Professor Ekpe; HR team members Ms Adair, Ms Rehinsi, Ms Kelly and Ms McLarty; the IT team including Mr Macrae; and Mr Norman, who investigated her grievance.

172. The second point was specific to Dr Eibl and Professor Tillin, who were both members of the interview panel who appointed the Claimant to the role with the Respondent, and who knew at the time that she was an Egyptian, Muslim woman. Mr Fitzpatrick's submission was that it was improbable that Dr Eibl (who had also encouraged the Claimant to apply) and Professor Tillin would support the Claimant's appointment only then to discriminate against her because of characteristics of which they were well aware.

173. The Tribunal did not find these submissions determinative of the issues, but we took them into account when considering our conclusions.

174. Another general matter which was evident at various stages of the Claimant's evidence and in the contemporary correspondence and documents was the Claimant's belief that she was being subjected to surveillance and interference with her work and career directed by or originating with the Egyptian security services. Mr Fitzpatrick accepted that, given that the Claimant's academic work is in the realm of politics, it is possible that such a thing is indeed happening. The Tribunal agreed that this was possible, and we make no finding to the contrary.

175. Returning to the particular complaints, these were itemised in issue (6) sub-paragraphs (a) to (i) under discrimination because of race, and then adopted as allegations of discrimination because of religion or belief in issue (11). The other elements of a complaint of direct discrimination were set out in issues (5), (7-9), (10) and (12-14) respectively. The Tribunal will give its conclusions by reference to sub-paragraphs (a) to (i).

176. Sub-paragraph (a) referred to the meeting with Professor Tillin on 24 November 2021. The Tribunal has found that this was an ordinary discussion of a matter which had arisen, i.e. how to deal with a situation where two academic markers disagreed about the mark to be given to a piece of work. The Claimant relied on Dr Sircar as a comparator, but there was nothing beyond the fact of their different racial and religious characteristics to suggest that these were a relevant factor. There was no basis on which the Tribunal could properly find, in the absence of an explanation, that Professor Tillin was influenced in any way in what she said by the Claimant's race or religion. The complaint failed at the first stage of the two-stage test.

177. The allegation in sub-paragraph (b) also concerned comments about marking, this time on 10 November 2022. The Tribunal's conclusion is that, if Professor Tillin made the alleged comments, these were again matters

arising in an ordinary discussion of work matters. There was no basis for properly finding, in the absence of an explanation, that she was influenced in any way by the Claimant's race or religion.

178. Sub-paragraph (c) concerned the removal of the Claimant as convenor of the Capstone module on 17 January 2023. The Tribunal has found that the reason for this was that the Claimant had said that she was overburdened, and that although she would have preferred to retain the Capstone role and be relieved of the Latin America module, that was not practicable. There was no basis for a proper finding, in the absence of an explanation, that Professor Tillin was influenced in any way by the Claimants race or religion.

179. The Tribunal found the position to be similar with regard to sub-paragraph (d), which concerned the Claimant's earlier (31 January 2022) removal from the role of admissions tutor. We have found that the reason for this was that the Claimant wanted to "streamline" her workload. That does not provide the basis for a proper finding, in the absence of an explanation, that Professor Tillin was influenced in any way by the Claimant's race or religion, and this allegation also fails at the first stage of the two-stage test.

180. Sub-paragraph (e) concerned Professor Tillin's alleged remark about decolonisation on 6 October 2022. This allegation fails at the first stage of the two-stage test, as the Tribunal has found as a matter of probability that this was not said. Further to this, even if it was said, it is not apparent what link there would be with the Claimant's race or religion.

181. Sub-paragraph (f) concerned the Information Compliance team's closing of the Claimant's report on 16 March 2023 without investigation. The Tribunal has found that this was done because the team considered that the subject matter of the report had already been dealt with. There was no basis on which the Tribunal could properly find that the decision was influenced in any way by the Claimant's race or religion (indeed, the Claimant herself said only that the decision was "potentially" influenced by biases).

182. The Tribunal considered sub-paragraphs (g) and (h) together. These concerned HR not investigating the Claimant's reports. We have found that Ms Rehinsi, Ms Kelly and Ms McLarty were deferring to Ms Adair in the matter, and that Ms Adair took neither aspect any further because she believed that both had been concluded. In neither case was there a proper basis for a finding, in the absence of an explanation, that these decisions were influenced in any way by the Claimant's race or religion.

183. Sub-paragraph (i) alleged that the Claimant's dismissal was an act of direct discrimination. The Tribunal has found that the reason for the dismissal was redundancy. The Claimant did not in her submissions identify any reason for asserting that her race or religion were factors in the decision to dismiss her. Nor could the Tribunal find any proper basis for making such a finding. The fact that the need for the type of teaching provided by the Claimant was expected to diminish provides a complete explanation for the decision to dismiss her for the reason of redundancy. The recommendation

to close the MA programme had not been made by Professor Tillin or Professor Herrick.

184. The Tribunal considered that the point about Professor Tillin having been a member of the panel which recommended employing the Claimant was particularly relevant here. Things might, of course, happen in the course of 18 months or 2 years of employment to lead a manager to form a more adverse opinion of someone they had previously recommended for employment; but that would not apply to the characteristics of race and religion, which were constant and known throughout. The Tribunal again found that the complaint failed at the first stage of the two-stage test.

Harassment related to race and/or religion

185. Section 26 of the Equality Act includes the following provisions about harassment:

(1) A person (A) harasses another (B) if –

(a) A engages in unwanted conduct related to a relevant protected characteristic and, 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.

186. The question whether conduct is "related to" a protected characteristic is different from that under direct discrimination as to whether treatment was "because of" a protected characteristic. The "related to" test has a potentially wider application.

187. The issues include various complaints of harassment, some related to race only, some related to religion only, and some related to both. Where the allegations relate to both protected characteristics, the Tribunal will deal with these together. Again, we will follow the order in the list of issues.

188. In the interests of proportionality, the Tribunal will not set out every element of the definition of harassment in relation to each of the allegations. We will address those elements which are determinative of our decisions.

189. Issue (15a) concerned the alleged comment by Dr Eibl on 8 November 2021 about the mental capacity of Arabs. The Tribunal has found that this has not been made out on the facts.

190. Issues (15b) and (20d) made allegations of harassment related to race and/or religion arising from the meeting with Professors Tillin and Herrick on 24 March 2023. The Tribunal has found that the essential factual elements of the allegations in sub-paragraphs (i) (potential referral for disciplinary action), (ii) (allegation of non-collegial behaviour towards Dr Santos) and (iv) (telling the Claimant her language was rude and inappropriate and send a copy of the bullying and harassment policy) were established. Sub-paragraph (iii) (mocking the Claimant's marking objectivity has not been made out on the facts. Sub-paragraph (v) (gaslighting) went no further, as the Tribunal has found, than stating that the data breach issue had been fully investigated.

191. To the extent that the factual allegations have been made out, the Tribunal has found that these were straightforward responses to the Claimant's conduct or activities. There was no basis on which the Tribunal could properly find, in the absence of an explanation, that what Professors Tillin and Herrick said was related to the Claimant's race or religion.

192. Issues (15c) and (20e) concerned Professor Tillin's farewell email of 31 August 2023, which the Claimant contended was an act of harassment related to race and/or religion. The Tribunal accepted that the Claimant believed the email to be insincere, but also accepted that Professor Tillin sent it in good faith. The latter finding means that it did not have the purpose of violating the Claimant's dignity or creating a harassing environment for her in the terms of section 26(1)(b)(ii).

193. As to whether the email had the relevant effect, the Claimant's evidence fell short of convincing the Tribunal that she believed that it did. As identified by Elias LJ in **Grant v HM Land Registry [2011] IRLR 748**, the concept of harassment is intended to apply to relatively serious matters, and should not be attached to trivial acts which cause minor upset. The Tribunal understood that the Claimant would have disapproved of and been displeased by an email which she thought was insincere: but that does not mean that she perceived it as violating her dignity or creating a harassing environment for her. Furthermore, the Tribunal considered that it would not be reasonable for the email to have that effect. Taking all of these matters into account, we found that it did not have that effect.

194. The Tribunal also found no basis on which it could properly conclude that sending the email was related to the Claimant's race or religion. It was an email that was typical of the sort that a manager would send when wishing to send a polite farewell to a departing colleague.

195. Issue (15d) referred to but added nothing to issues (15e) and (15f) and does not require separate consideration.

196. Issues (15e) and (20g) contained a complaint that in his report on the grievance, Mr Norman accused the Claimant of making allegations against colleagues due to their political views with the additional point in (20g) that the accusation was of making baseless and uncorroborated allegations.

The Tribunal has earlier recorded that the expression used in the report was in fact "unsubstantiated" allegations.

197. The Tribunal has found that what Mr Norman wrote about the Claimant's allegations reflected his view of them. We concluded that there was no basis on which we could properly find, in the absence of an explanation, that his expressing of this view was related to the Claimant's race or religion. There was no reason on the face of the matter to connect a statement that allegations against colleagues were made due to their political views, or a statement that the allegations were unsubstantiated, with the Claimant's race or religion.

198. Alternatively if, contrary to this, the first stage of the two-stage test has been satisfied, the Tribunal has accepted Mr Norman's explanation that he wrote what he did on the basis of the evidence before him, and that there was no proof of the allegations. We found that this explanation established that what Mr Norman wrote was not related to the Claimant's race or religion.

199. Issues (15f) and (20h) concerned statements made by Professor Herrick in her statement to the grievance investigation. The Tribunal has found in relation to all four aspects complained of that Professor Herrick was describing the situation as she saw it, and that her observations were reasonable in the circumstances. We concluded that there was no basis on which we could properly find that making such observations was related to the Claimant's race or religion. There was no reason to connect reasonable observations about the Claimant's activities with her race or religion. Alternatively, if contrary to this the second stage of the two stage test is material, the Tribunal has accepted Professor Herrick's explanation of why she said what she did, an this explanation establishes that her observations were not related to the Claimant's race or religion.

200. There were 3 allegations of harassment related to religion only. In relation to issue (20a) the Tribunal has found that Dr Sircar expressed the view that the Claimant would find teaching a particular aspect difficult, that she did so because of the academic content and style of the materials, and that this was an ordinary conversation between colleagues. These findings mean that the comments were not made with the intention of harassing the Claimant. So far as the effect of the comments is concerned, the Tribunal again had in mind the guidance in **Grant** cited above. We accepted that the Claimant perceived the comments as having a harassing effect, but found that it was not reasonable for them to have that effect. We also took into account of the circumstances of this being an ordinary conversation between colleagues about something that was properly the subject of discussion at work. We found that the comments did not therefore have the effect of harassing the Claimant.

201. The Tribunal also concluded that there was no proper basis, in the absence of an explanation, for a finding that the comments were related to the Claimant's religion. There was no reason to connect an expression of the

opinion that the Claimant would find a particular aspect of the course difficult with her religion. Alternatively, the Tribunal has accepted Dr Sircar's explanation that the difficulty she was referring to lay in the academic content and style of the materials.

202. Issue (20b) also concerns Dr Sircar. The Tribunal has found that she raised the matter of the Claimant's teaching style because of comments made about it by students. We found that there was no proper basis, in the absence of an explanation, for a finding that this was related to the Claimant's religion. There was no reason to link the raising with the Claimant of comments about her teaching style with her religion. Alternatively, the Tribunal has accepted Dr Sircar's explanation that the matter was not related to the Claimant's religion, and that it was the Claimant herself who introduced that into the discussion.

203. Issue (20c) involved an allegation that Professor Tillin warned the Claimant against a particular colleague as a mentor. We have found as a matter of probability that she did not do so. Our other findings about this allegation also mean that there is no basis on which we could properly find, in the absence of an explanation, that what Professor Tillin said was related to the Claimant's religion. She was doing no more than giving general information about the possible mentors.

Victimisation

204. Section 27 of the Equality Act includes the following provisions:

(1) A person (A) victimises another person (B) if A subjects B to a detriment because –

(a) B does a protected act
(b) ……

(2) Each of the following is a protected act –

(a) ……
(b) ……
(c) ……
(d) Making an allegation (whether or not express) that A or another person has contravened this Act.

205. The list of issues and the Claimant's written submissions identified the protected act as "the harassment and discrimination reports of April 2023". On pages 54 to 55 of her witness statement the Claimant identified 3 alleged protected acts from an earlier period, November 2022 to February 2023, which could not fall within this description. Protected act 4 was said to be the email of 31 March 2023 addressed to Professor Herrick and copied to Professor Mills and Ms Adair, which contained the Claimant's dissenting comments about the 24 March meeting. The email contains an allegation of discrimination due to (primarily) religious beliefs and (possibly)

racial background. Protected act 5 was said to be the report via the portal, also made on 31 March 2023, but incorrectly dated in the Claimant's witness statement as 2 April.

206. Mr Fitzpatrick identified the latter as the relevant act in his submissions, and accepted that it was a protected act. The Tribunal considered that the email of 31 March 2023 was also relevant, and was also a protected act as it made an allegation of discrimination because or religion and/or race.

207. Issue (29a) identified a detriment done by Dr Knoerich. As stated earlier, this cannot have been done because of the protected acts as it pre-dated them.

208. Issue (29b) cited Professor Ikpe's failure to provide a reference as a detriment. The Tribunal has found that she did not know about the Claimant's complaints. The failure to provide a reference cannot therefore have been because of the protected acts.

209. Issue (29c) identifies the Claimant's dismissal as a detriment done because of the protected acts. The Tribunal has found that the reason, or principal reason, for the dismissal was that the Claimant was redundant. We reminded ourselves that this finding does not necessarily mean that the dismissal was not an act of victimisation. An detriment may be done "because of" a protected act where the latter was a substantial (meaning, not trivial) reason for the former.

210. It would therefore be possible for a Tribunal to find that, while the principal reason for dismissal was redundancy, complaints about discrimination also played a more than trivial part in the decision. Having in mind once again the burden of proof provisions, the Tribunal considered whether the facts were such that it could properly find, in the absence of an explanation, that the protected acts played such a part.

211. The Tribunal concluded that the facts were not of that nature. The proposal to close the MA course did not originate with Professors Tillin or Herrick. It pre-dated the protected acts. The Tribunal found that the redundancy of the Claimant's role provided a complete reason for her contract to be terminated. There was no need for Professor Tillin or Professor Herrick to be influenced by the discrimination complaints. Nor did the Tribunal find any evidential basis for saying that they were so influenced. It might be assumed that Professors Herrick and Tillin were not pleased by an accusation of discrimination: but that, in the Tribunal's judgement, would not be a proper basis for finding that they had victimised the Claimant by allowing that to be a factor in their decision to dismiss her.

212. Should the Tribunal be wrong about that, we would find that the Respondent has established that the Claimant was not victimised in relation to her dismissal. We found that redundancy was the totality of the reason for the Claimant's dismissal, and that it followed that there was no element of victimisation for having made the relevant complaints.

213. It follows from the reasons given above that the complaints are all unsuccessful and are dismissed.

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Employment Judge Glennie

Dated: ……16 January 2025……..

Judgment sent to the parties on:

22 January 2025
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For the Tribunal Office