



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant: Mr V Stanley-Idum

Respondent: (1) Ministry of Defence; (2) Matthew Lawrence;
(3) Eleni Parsons; (4) Shelley Grattidge;
(5) Martyn Williams

Heard at: in public by CVP

On: 6, 7, 8, 9, 10, 13, 14, 15, 16, 17 January 2025
(28, 29 January in chambers)

Before: Employment Judge Adkin
Ms D Olulode
Mr D Shaw

Appearances

For the claimant: in person
For the respondent: Ms E Hodgetts, Counsel

JUDGMENT

- (1) All complaints brought against the Second, Third, Fourth and Fifth Respondents are dismissed upon withdrawal, those Respondents having agreed not to pursue the Claimant for costs.
- (2) The following complaints against the First Respondent were brought out of time. The tribunal did not extend time, and it follows that these claims are dismissed:
 - a. Detriment under section 44 of the Employment Rights Act 1996 (“**ERA**”);
 - b. Detriment under section 47C of ERA;
 - c. Harassment on the grounds of race pursuant to section 26 of the Equality Act 2010 (“**EqA**”);
 - d. Direct race discrimination allegations under section 13 EqA;

- e. Victimisation under section 27 EqA: allegations save for 5.2.11;
 - f. Associative disability discrimination under section 13 EqA.
- (3) The following complaint brought against the First Respondent is not well founded and is dismissed:
- a. Victimisation under section 27 EqA allegation 5.2.11.

REASONS

Overview of the Claim

1. The Claimant presented the following claims under the Equality Act 2010 (“**EqA**”) on 18 July 2023:
 - 1.1. Direct race discrimination;
 - 1.2. Harassment on the grounds of race;
 - 1.3. Victimisation;
 - 1.4. Associative disability discrimination.He also brought the following claims under the Employee Rights Act 1996 (“**ERA**”):
 - 1.5. Detriment under section 44 (health and safety detriment);
 - 1.6. Detriment under section 47C (detriment relating to leave for family and domestic reason).
2. The detail of the claim was not provided until a particulars of claim document submitted on 27 October 2023.
3. These claims substantially relate to the period October 2021 to April 2023 during which period the Claimant had quite a large number of different line managers and “tasking” managers.
4. While originally there were five Respondents, the First Respondent being the Claimant’s employer the Ministry of Defence (“MoD”, “the Respondent”), and the other five being named individuals, the Claimant withdrew the claim against the named individuals during the course of the hearing. It is convenient in these reasons to refer to the Respondent – this means the First Respondent.
5. At the core of the dispute between the parties are performance concerns about the Claimant on the part of the Respondent within its Transformation Directorate which the Claimant disputes the validity of and says were discriminatory and the fallout of grievance investigations and steps taken under the Respondent’s conduct policy, which the Claimant says amounted to unlawful discrimination, harassment, victimisation and detriment.

6. The Claimant has British nationality. His race is described by him as Black African. He told the tribunal that he was born in Nigeria but does not now have Nigerian citizenship.

Evidence

7. We received an agreed bundle of 5,099 pages, together with various documents which we accepted on application of the parties during the course of the hearing.
8. We received a witness statement and heard oral evidence from the Claimant.
9. We received witness statements and heard oral evidence from the following Respondent witnesses:
 - 9.1. Benjamin Mann;
 - 9.2. Lydia Manns;
 - 9.3. David Bennett;
 - 9.4. Sharon Docherty;
 - 9.5. Matthew Lawrence;
 - 9.6. Eleni Parson;
 - 9.7. Andrea Eagle;
 - 9.8. Richard Smart;
 - 9.9. Shelley Grattidge;
 - 9.10. Martyn Williams.
10. We received a witness statement but heard no live evidence from Fiona Byrne.

Procedure

Applications

11. The Claimant's application to postpone the hearing was refused for full reasons given orally, including *inter alia* that it would be likely to be Spring 2026 before the matter could be relisted, and there had already been substantial delay. Notwithstanding the refusal of that application, having started the hearing on a Monday, we did not commence live evidence until the fourth day of the hearing (Thursday) in order to allow the Claimant some additional preparation time. He did not have to cross examine any of the Respondent witnesses until the second Monday, i.e. day six, 13 January which provided him with additional reading and preparation time. The Claimant put cogent, well formulated and searching questions to the Respondent's witnesses.

12. The Respondents' application for a deposit order which had been made a number of months earlier by the then Second to Fifth Respondents, was not pursued during preliminary matters at the strong encouragement of the Tribunal for purely practical reasons, whilst acknowledging a marker being put down costs. In the event the Claimant ultimately withdrew those claims during the second week of the hearing and the Second to Fifth Respondents are not seeking costs.
13. The Claimant's application to amend his claim granted in part to allow him to pursue a complaint that all allegations of victimisation detriment are additionally or alternatively acts of direct race discrimination subject to time limits (per **Galilee v Commissioner of Police of the Metropolis**: UKEAT/0207/16/RN). The remainder of this application was refused. This application was revisited on day 6 following a query from Respondent's counsel, to confirm, explicitly, that the sex discrimination complaint had not been allowed. The Claimant's application to reconsider that clarification on day 6 was not allowed for reasons given orally.
14. A restrictive reporting order was made in relation to one of the Respondents' witnesses pending liability for reasons given orally, considering evidence and the competing convention rights. Bearing in mind the importance of open justice and that the reasons for the order substantially related to anxiety in giving evidence, we do not consider that there is a good basis to make any continuing restrictive reporting order in respect of parties or witnesses and accordingly there is no such order now in place.

Adjustments

15. Both the Claimant and Mrs Docherty required frequent breaks Tribunal which the Tribunal facilitated during the hearing.

Findings of fact

16. Our findings of fact have been made on the balance of probabilities, based on the oral evidence of the witnesses, the witness statements, the contemporaneous documentation and what in the judgment of the Tribunal is inherently likely. There are a significant number of factual matters in dispute.
17. Many of the matters disputed between the parties we have not tried to resolve since they are not essential for our decision on the Claimant's complaints.

Protected acts numbering

18. The five alleged protected acts which are the basis for the Claimant's claim of victimisation have retained the numbering given in the list of issues for each of reference. The protected acts appear in chronological order in our findings of fact, not in numbered sequence.

Comparators

19. There are various comparators for the claimant's claim of discrimination. While these comparators have been given numbers 1-13 - some of them are witnesses and alleged discriminators, whom the tribunal would name ordinarily as part of its written reasons.
20. As to the other comparators, we cannot see any reason why we should not name these comparators. There is nothing inherently embarrassing about what is said about the comparators. They are not criticised. We have not made findings about matters which would be expected to be private such as level of salary. We recognise, based on appellate guidance, the importance of naming names, and accordingly we have named them where appropriate.

History of Claimant's promotions

21. The Claimant commenced work with the Respondent on 2 October 2017 as a D-grade civil servant.
22. His initial role was working as an analyst for he worked towards managing surge activities for Defence board priorities including Managing the MOD's response to crises such as the Hurricanes in the Caribbean, Nuclear testing and proliferation in Iran and the MOD's response to a No deal EU exit scenario.
23. The Claimant moved to the People Transformation team in about October 2019 to serve in the capacity of PMO (Project Management Office) with the MOD people transformation team on a level transfer at the same grade. He served in this position until April 2020.
24. From April 2020, the Claimant obtained a promotion to Senior Executive Officer ("SEO") working in the MOD Central Transformation team at Head office working as a Project Manager. This was a C1 grade civil service role. The effect of this promotion was to skip the C2 grade and has been characterised before us in the evidence as a "double promotion". A C1 grade in the MoD grading guidance document explains that this role might involve significant staff management responsibility of up to 100 staff and would have "Considerable freedom of action in day-to-day aspects of professional/technical and management issues". Further guidance as to activities taken at this level comes from the grading guidance:

"Typical examples of activities undertaken at this level and their characteristics are: the co-ordination of administrative and functional activities, including financial and HR services; tendering policy advice on specific, complex subject areas; specialist technical advice or consultancy; leading and directing higher-priority projects and research activity."

"Often, good drafting skills are expected. Examples include writing complex and comprehensive minutes and reports on areas researched and/or investigated, which set out and examine options and make recommendations"

Final promotion

25. Stepping forward in the chronology to a point after most but not all of the alleged unlawful acts in the present claim, in February 2022, the Claimant was subsequently promoted to his current grade at Band B2 (Grade 7) working with the Directorate of Acquisitions and Project delivery.

Claim against previous employer

26. Of relevance to the Claimant's awareness of the ability to bring a claim in the employment tribunal, in 2019 the Claimant had a claim proceeding against a former employer, the substance of which must have predated the commencement of his employment with MoD.

Genesis of the Central Transformation team (2020)

27. Mrs Sharon Docherty, then a Grade 7 Transformation Business Partner joined the Central Transformation team in 2020 when a team with just being formed and worked with her then line manager Mr Dwayne Branch, Deputy Director (whom she describes by way of ethnicity or heritage as Black Caribbean) on a recruitment campaign to recruit programme and Project Managers .
28. The Central Transformation team was approximately 40 staff and part of the Transformation Directorate of approximately 70 staff.

Mrs Docherty's background

29. Central to the Claimant's complaints in this matter are that Mrs Docherty either directly or through her encouragement of direct reports discriminated against him because of his race or victimised him for complaining about discrimination.
30. Mrs Docherty characterised her management style as "firm but fair". Her former manager Mr Branch, when interviewed as part of an internal investigation broadly supported that self-assessment. By this stage Mr Branch was no longer an employee of the Respondent and was not working with Mrs Docherty. He characterised her as being "motherly", "firm but loving" and "no nonsense even with him". That latter comment we took to be an allusion to the fact that he was her manager rather than the other way round.
31. Mrs Docherty gave uncontested evidence of her history as a manager over nearly 20 years. She has plainly not hesitated to take robust action where she deemed it necessary. She dismissed a white woman from Northern Ireland for fraud in 2006 and in 2014 dismissed a white man for irregularities with his travel expenses. More recently she dismissed a white woman for fraudulent use of a cycle loan. In around 2016 she issued an informal warning to a white woman in relation to performance concerns. Mrs Docherty highlights the ethnicity of these individuals seeking to rebut a suggestion that she was only taking action in the Claimant's case because he had a Black African heritage or ethnicity.

Recruitment of Claimant

32. Mrs Docherty and Dwayne Branch worked on a campaign in which over 100 candidates were interviewed.
33. Mrs Docherty was on a panel of two that interviewed and appointed the Claimant into the Central Transformation team. She cannot recall who the other panel member was that interviewed the Claimant, but under the Respondent's policy this would be someone with different profile to herself to promote diversity in the recruitment process.

Claimant's first deployment in Central Transformation team

34. Between April and June 2020 the Claimant reported to Mr Benjamin Mann, an ex-army officer who was a Civil Servant Grade B2.
35. The Claimant's role involved him being deployed to various projects. Mr Mann was candid about the fact that the first deployment that the Claimant worked in was "chaotic" and with the benefit of hindsight acknowledged that it seems that the Claimant needed more support than he received. Mr Mann explained that by "chaotic" he did not mean disorganised, more that the management structure and stakeholders were complex such that it was a difficult project to work on.
36. The Claimant appears not to have had much experience of this kind of project work, by contrast with Mr Michael Schwab Beaugrand, another colleague who was working on the same project who had private sector experience in a project manager role, whom the Claimant relies upon as a comparator.
37. It was clear from their exchange during the Claimant's cross examination of Mr Mann that both agreed that with the benefit of hindsight that the Claimant would have benefited from more support in this assignment.
38. The Respondent's case is that the Claimant must have demonstrated some relevant experience at interview to obtain the role. Mr Mann's evidence was that the Claimant presented as if he knew what he was doing and it was only when Nick Norton, in effect the internal "client" contacted him after a month or so that he realised that it was perceived that the Claimant was not adding value, that he was hard to get hold of and was unable to deliver tasks without close management.
39. While Mr Mann suggested his witness statement that he found the Claimant to be "closed off" and "difficult to engage openly with", he acknowledged that he did not discuss Mr Norton's concerns with the Claimant directly. There is documentary evidence of Mr Mann having had a conversation with Mr Norton and "concerns regarding his output vs input required" and it is agreed in those emails that the Claimant should be released from the project by 1 July 2020, which would "enable us to monitor him more closely and give him a stable and less time critical role".

40. In April 2021 Mr Mann had to contribute to the end of year review for the Claimant relating to this assignment. He acknowledged that there was an absence of written evidence on objectives which was his fault. As to the deployment he said this:

“The deployment did not go well, Lisa Sholley-Osmund felt that they could not commit the time to upskilling and managing that he needed and we closed the deployment earlier than anticipated; I did not push-back or dig any deeper as I wanted to get him closer in order for us to work alongside him.”

41. Again, with the benefit of hindsight, it might have been better had these performance concerns been addressed directly with the Claimant at the time, but there was no such conversation. From this point forward concerns about the Claimant’s “performance” were handed on from one line manager and “tasking” managers to the next, whereas the Claimant himself initially at least did not understand that this was the perception.

Change in reporting line

42. Returning to the chronology, in June 2020 the Claimant moved from Defence Digital to Central Transformation Sustainable Road Transport Programme with a proposed reporting line change to Lydia Manns. Ms Manns became his tasking manager with Mr Mann remaining as line manager with weekly check ins.
43. Mr Mann declined to provide the Claimant with a reference in both 2020 and 2021 for the Advanced Command Staff Course (“ACSC”), which is a course which takes several months and is regarded as a prestigious qualification which is a preparation for more senior management within MoD. We accepted as genuine Mr Mann’s perception that the Claimant would not have reached the standard required.

Ms Manns

44. From June 2020 the responsibility for “tasking” the Claimant moved to Ms Lydia Manns.
45. Mr Mann described the move to Ms Manns as being a “fresh start”, although Ms Manns was told at the outset that the Claimant had not been delivering as expected. It does not seem therefore that the Claimant was starting with a blank sheet as far as his new tasking manager was concerned.
46. We accepted Ms Manns’ evidence that in her assessment the Claimant’s working style was unorthodox. She says he frequently worked late at night but was then unavailable during the day. She says that she had to intervene to complete or amend his work which was delivered close to or after a deadline. According to her witness statement her impression was that he was not a team player and that he did not take responsibility for his actions.

47. On 18 September 2022 at 15:30 Ms Manns chased up a colleague Lucy and invited the Claimant at 14:45 to discuss amendments to a paper which was due to be sent to another colleague that afternoon. The Claimant responded half an hour later to say that he had taken a break and run to the store to buy a new Hoover and that there was no notice regarding the meeting. Ms Manns responded to say that she was surprised that the Claimant had taken a large chunk of time out of the working day with no notice, particularly as there had been a discussion the previous day about the need to get a revised version of the paper out by the end of the day. She put a meeting in the diary for the following week to have a discussion about working practices and emphasised the importance of working trust. She asked that the Claimant give her heads up if he was taking time out of the working day beyond the standard lunchbreak both in terms of managing high-priority tasks and also from my health and well-being perspective.

Review at 3 months

48. A review produced in October 2020, three months into after the Claimant started reporting to Ms Manns reads as follows:

Victor has partially met his objectives during the reporting period, although many will be met with continued drive and focus by the end of the reporting period. He joined the team mid-way through the automation workstream, and has driven it forward as far as possible given the project is now transitioning to Support Transformation. He engaged effectively with stakeholders, both internal and external in progressing this work. Victor is fairly reserved, but the input he provide does provide to team discussions is always hugely beneficial to others, and he should consider voicing his opinion more regularly. Victor has supported the team in creating a new operating model, undertaking research and drawing on his experiences from elsewhere to create a possible course of action. He is currently leading on the creation of a training package for the team, and is delivering this to a high standard. He is engaging with external training providers effectively, and distilling the required information to enable senior leaders to agree a way forward. Victor is keen to enhance his understanding of Defence, and how it operates, and is achieving this through personal study and through engaging with his network. Assisting others within the team with the delivery of tasks would assist with this. As Victor grows in confidence and understanding of the Transformation area, I expect his performance will continue to flourish.

49. This was a mixed review. The project on which the Claimant had been working ultimately did not lead to a successful outcome, but it is agreed that this was due to political and funding constraints rather than because of the quality of the work that had been produced by the team.

50. There are some positive observations and the signoff “I expect continue to flourish” perhaps does not sit well with the overall conclusion “partly met” which represents a less than a positive review.
51. Although not in her witness statement, during her oral evidence Ms Manns says that she had been minded to award “not met” (on a scale which is “not met”, “partly met”, “met” and “exceeded”), but after a long conversation with the Claimant increased the assessment to “partly met”.
52. Viewed from the Claimant’s perspective, purely based solely on the wording set out the reasons why this was “partially met” rather than “met” are rather opaque.

April 2021

53. The End of Year Performance Review on 27 April 2021 was a finding that the Claimant had “partially met” expectations.
54. As part of that review Mr Mann provided the comments on the Defence Digital deployment which are set out above, and some comments about the “Redeployment Log” objective:

“He engaged well on the ‘Deployment Log’ objective initially, however, required a lot of steering and did not deliver a product that was adequate within the timeline expected – I am not confident that he grasped the concept or understood clearly what the solution might look like; this is summarised well by his objective text in the box below, it does not reflect what was needed and I have not seen high-quality products that reflect it.

I like Victor as a person, but in a professional capacity (on the two tasks above) he has not delivered, I believe that he has been out of his depth as a C1 – Victor has not shown that he can take a complex task, understand it, work independently and develop a high-quality solution.

I would see him as having partially met these objectives at best.”

Recordings

55. In 2021 Mr Mann came to believe that the Claimant was recording conversations with him. Although we did not hear clear evidence on this it seems possible that the source of this was an email in December 2021 when the Claimant emailed Mrs Doherty to say that he had checked his “notes and **recordings**” [emphasis added].
56. The Claimant sought to suggest to the Tribunal that this was a typographic error and it should have said “records”. He did not explain what “records” this related to.

57. Mr Mann made his own observation that the Claimant would join Microsoft teams meetings by both laptop and mobile telephone, with the explanation that this was for continuity reasons in case one device dropped out. We are not surprised that Mr Mann found that explanation unconvincing.

David Bennett

58. The Claimant's tasking manager changed to David Bennett in June 2021. The Claimant reported to Mr Bennett for a short period of three months. During that period at the Claimant was involved in two different projects of substance. The first PDSF stakeholder analysis caused Mr Bennett to raise with HR concerns about performance. Mr Bennett explained that the Claimant presented a piece of work which he said had taken 5-8 hours which Mr Bennett thought should have taken 10-15 minutes.
59. Mr Bennett admitted that he spoke to HR at this stage because he had understood at the outset of managing the Claimant that had been some performance concerns. We understood that had he not been told that there were performance concerns he would have been rather slower in speaking to HR.
60. Following this conversation with HR, in July 2021 consideration was given to initiating an informal Managing Poor Performance process.
61. The Claimant and Mr Bennett found a number of points of agreement during oral evidence. We accepted Mr Bennett's evidence that he had a genuine performance concern in relation to the first project but genuinely perceived an improvement such that ongoing poor performance management was unnecessary as he handed over responsibility for management of the Claimant at the end of this three month period.
62. In an email on 12 August 2021 Mr Mann commented on this improved second piece of work as
- “a good piece of work (with a lot of oversight and clear steps/guidance) so we have held off initiating the informal performance process, we will continue assess and keep in the back pocket but want to encourage him, and if there are positive signs refrain from elevating the process..”

Gradual return to workplaces

63. By way of general background on 31 August 2021 there was a notification with guidance about working from home and safety which was to encourage people back to work “gradual return to workplaces”, following guidance to this effect from the Prime Minister.

Change of line management

64. Cassie Bianco took over line management of the Claimant from 20 September 2021 onward until 13 December 2021 when she transferred to a different team.

65. On 21 September 2021, Ms Bianco had an introductory call with the Claimant. He recollection during the investigation of the internal grievance was that he began “to rant about how he feels he has been bullied during his whole MOD career.”
66. Since Ms Bianco had not met the Claimant in person, she asked the Claimant about his profile photo, which was of a white soldier, and his background. The Claimant responded that the photo was not of him, explaining that he used it because he was “a Black man with a big beard” and did not want people making assumptions about him.

Sandhurst away day 29 September 2021

67. A Transformation Directorate Team away day was held at Sandhurst on 29 September 2021. This was a hybrid event which team members were encouraged to attend in person but there was an option to attend virtually by MS Teams.
68. On 20 September 2021, nine days in advance of the event team members were given information as to how to book train travel:

“Apologies for the delay on this one - the time is now upon us! You need to get your travel sorted for the away day! Please read all of this as it is important when we're dealing with money

Firstly, it's worth noting that all travel costs under £400 can be self-approved by anyone D Band and above (all of us) but please make sure you've made your line manager aware in an email for audit trail purposes. All guidance on travel and subsistence can be found here. [\[hyperlink\]](#)

If you are planning on travelling by train

☐ You need to use the GBT (Global Business Travel) Portal [\[hyperlink\]](#) to book your train, further guidance can be found here [\[hyperlink\]](#)

☐ Creating your account is the most onerous part of this process so please get ahead of it

Claimant's explanation for non-attendance

69. The Claimant has given various different explanations why he did not attend that event. On 7 December 2021 he wrote to Mrs Docherty as follows:

“An option to attend via teams was offered to all employees and in light of a lack of financial affordability to travel all the way to Sandhurst (In another city). I considered my economic situation because my disposable funding is heavily limited. I am a parent who pays child maintenance to the tune of over £500 a month, coupled with my basic necessities(Rent and utilities etc.).

I also have concerns about exposure to covid- 19 due to my family's health history. For these reasons, I didn't attend the Transformation Team Away Day in person and exercised the option to attend remotely.

70. The Claimant said that he was unaware of the fact that cash could be advanced to him.
71. The version in his witness statement dated 29 October 2024 (C58):

“58. While I had initially registered my interest in attending in person, due to the rising instances of covid 19 infectivity and due to a colleague who had originally offered to drive me there in person and in order to avoid having to travel by public transportation and thus exposing myself to the covid 19 virus to which as a BAME I was particularly susceptible and conscious that I was a care giver at the time for a family member who was at the time battling cancer and thus had a compromised immune system, I chose to attend the event via Microsoft teams alongside a vast amount of team members including Cassie Bianco my line manager (Caucasian Female)”
72. During the Claimant's cross examination of Mrs Docherty, he put to her that he had explained to her at the time that a colleague who was going to give him a lift, Anita Gyampoh, had problems with her car on the day of the event. Mrs Docherty could not remember this. There is no other supporting evidence that this occurred and it appears to have been raised for the first time during questioning of Mrs Docherty.
73. The Tribunal considers that if a last minute car failure had been an important factor which explained why the Claimant did not attend the event it would have been in his document of 7 December 2021. It was not.
74. Mrs Docherty evidence was that she had understood at the time that the Claimant's problem was in relation to affordability of travel costs, which she found odd because information about booking travel using the Respondent's system had been sent out on 20 September 2021 by Dan Ecclestone set out above. Additionally, she conceded that the Claimant had mentioned relatives, but not caring for disabled relatives.
75. The Claimant declined to attend a planning meeting for the away day that was due to take place virtually using MS Teams on 20 September 2021.
76. The Claimant said that he would attend the away in person, but in fact attended by MS Teams. The Respondent says that he attended late, logging in late and leaving early at 16:20. The Claimant disputes this. The fact that the Claimant had logged in after the start time was noticed by Ms Bianco who was herself attending remotely and had been prompted by Mrs Docherty because of C's non-arrival at the event in person.

Casual attitude to working hours

77. Mrs Docherty became concerned about the Claimant's casual attitude to working hours and to arrangements made with colleagues.

Emergency airport run 12 October 2021

78. On 12 October 2021 the Claimant emailed his line manager Ms Bianco to say:

My mother is unwell and so I have been drafted in to pick my sister and her kids up from the airport since I live close. I will be back at my laptop by 10.30 am I have my phone with me.

79. Given this message and Ms Bianco's account which was that the Claimant was not in fact back online until after midday it seems more likely than not that the Claimant did have his phone but did not have his laptop with him.
80. In the later grievance the Claimant said that he requested permission which Ms Bianco granted. It was not the case that the Claimant had been granted permission in advance. According to Ms Bianco she sent an IM (instant messenger) giving him the chance to explain the absence and asking if the airport run went ok. The Claimant did not respond.
81. In an email on 27 October 2021 when prompted about claiming annual leave the Claimant argued that he should only have to record 3 hours' leave (from 9:00 to 12:00) rather than half a day on the basis that he was online by noon. That supports Ms Bianco's recollection that he was not online in the morning.
82. When the Claimant gave an account of his actions to Mrs Docherty in October and then again on 7 December nearly three months later however, he stated that he had taken his laptop with him, took an Uber taxi and "conducted my days affairs while at the airport and in the back of my uber".
83. The Respondent's unchallenged evidence was that the sensitive documents which the team worked on were not held locally on laptops and therefore team members would need to be online to carry out their work.
84. The Tribunal found the Claimant's evidence on the extent to which he was able to work at the same time as carrying out this airport run unconvincing, in particular because his initial email suggested that he would be away from his laptop and his email of 27 October tacitly accepts that he was offline between 9:00 and 12:00.
85. It is evident from an email exchange between Mrs Docherty and Ms Bianco in October 2021 that they felt, not unsurprisingly that the Claimant was providing them inconsistent or inaccurate accounts of what had occurred.

Short day in Main Building on 13 October 2021

86. On the following day 13 October 2021, the Claimant met Ms Bianco and another colleague Mr Schwab-Beaugrand in the MOD Main Building. Mrs Docherty's witness statement suggests that the meeting was due to start at

10:00 but the Claimant did not attend until 11:00. An agreed start time is not supported by Ms Bianco's annotations of the Claimant's account dated 7 December, however. In that note Ms Bianco says that no meeting had been scheduled, given that it was a "relaxed" meeting, although she makes the comment that 11:00 is late to start work.

87. Later that day the Claimant had a meeting with Ms Bianco at 14:00 to discuss his Mid-Year Report. At 14:02 when he had been at work for only three hours, he sent a text saying that he needed to rush home as there were people coming to view his property. It is slightly unclear why the matter was so pressing since the Claimant later admitted that this evening appointment was 18:00 and he only needed to travel back from Central London to Harrow.

Late to one-to-one meeting

88. On 18 October 2021 the Claimant was late to a one-to-one meeting with Ms Bianco. His explanation was that he was resolving his council tax bill.

Away Day 21 October 2021

89. An away day for the Delivery Team was arranged on 21 October 2021. There was no option offered to attend this meeting remotely. Mrs Docherty booked a room without technology access to minimise distractions and instructed the team not to bring laptops.
90. Having previously tentatively accepted it, the Claimant electronically declined an invitation to a Delivery Team Away Day on 21 October 2021 the evening before out of office hours on 18:53. Afterward he explained that he was moving house in 48 hours and had a family court case the next day and did not want to risk getting ill.
91. On the day itself 21 October at 11:51 the Claimant wrote:

"As discussed today on skype, I have had to decline as I have a family court case tomorrow in the first instance and need to move house in 48 hours. This would require quite a lot of mental and physical energy and I as such cannot afford to compromise that with potentially being ill. I came in to attend our last meeting at head office and I was quite unwell by the time I got home and was basically weakened with joint pain and a migraine the next day.

In light of the high pressure/Stakes of the next 48 Hours, I have opted not to take that risk. I am also due to host a handover workshop today as well as submit a contribution to PDSF's MPLT paper in advance of submission tomorrow.

Extend my apologies to the team and Sharon especially in light of the effort she has invested in the day."

Court case

92. On 22 October 2021 the Claimant had a court hearing in a family court in relation to a custody matter. It would be entirely natural and understandable that this matter to some extent preoccupied him and that was a source of a degree of stress for him at around this time.

House move/broadband difficulties

93. On 25 October 2021 the Claimant was moving house and experienced "broadband issues", which was only identified when Ms Bianco called the Claimant at 11:30am because of her concern that he had been offline all morning.
94. Mrs Docherty was subsequently critical of the Claimant for failing to notify line management of this. Since documents cannot be stored locally on a laptop under MoD policy, the lack of internet connection meant that the Claimant could not carry out work other than attending meetings using his telephone, which on that day accounted for 1.5 hours. In other words, Mrs Docherty's view was that the Claimant would have been unable to do a day's work on 25 October.

Recording of annual leave

95. The Respondent, Mrs Docherty in particular had a concern that the Claimant did not take annual leave for the half day airport run on 12 October even after being prompted. The court hearing on 22 October was noted in the Claimant's electronic calendar as a "private appointment", but take this as annual leave.
96. The Claimant's position in the tribunal hearing was two-fold. First, that provided annual leave was recorded by the last day in May (the end of the annual leave year) that was all that an employee needed to do. Second, and somewhat in tension with the first point, he had some expectation that his managers would enter his annual leave for him.
97. The Respondent's position in relation to the recording of annual leave is that someone of the Claimant's grade would be expected to be recording his own annual leave. Ms Parsons explained to the Claimant explicitly in a follow-up email after the meeting on 21 January 2022 that for business continuity reasons he needed to book annual leave and could only carry 10 days forward to the following year.
98. Mrs Docherty's evidence which we accept is that she would periodically consult the annual leave system she estimated in rough terms once a month to see what leave employees were taken. We accept that it would be unmanageable if employees wait until the last day of the annual leave year before they recorded any of the leave that they had taken. This would make the task of managing annual leave for the team generally difficult and there is the obvious risk of failing to capture leave that have been taken.

99. We did not form the impression that this was simply an administrative oversight on the part of the Claimant. The fact that he continued to argue even during the Tribunal hearing that there was no obligation on him to record annual leave until the final day of the year was indicative of a wider mindset of disregarding the effect of his actions on others and choosing to argue a point of principle rather than cooperate with the reasonable instructions of his managers.
100. The Claimant's approach to annual leave was unfortunate and demonstrated little ability to see matters from the perspective of his managers, nor to understand why this would be likely to undermine his relationship with other members of the team.

"Warning" 27 October 2021

101. On 27 October 2021, Sharon Docherty sent the Claimant an email entitled "INFORMAL WARNING – MINOR MISCONDUCT", in which Mrs Docherty explained

"As this is informal action, a note is not placed on your HR file, however a record will be held by me for 12 months, with an aim to review every 4 weeks.

102. The nature of this communication by Mrs Docherty is mischaracterised by the way it has been framed as an allegation (issue 3.2.1) in the Claimant's claim. Given that this warning and its content and context are important, the substance of it is quoted in full here:

"Following our meeting this morning this is an outline of what was discussed.

A number of incidents were brought to my attention for which I have taken advice and guidance from SMEs, read the relevant policy and decided that you as the Job Holder have not been meeting the behaviour and conduct standards expected of them.

This behaviour has included:

- Availability -

- o taking time to conduct private meetings e.g. airport runs, court hearings etc - without annotating in your calendar your movements or recording leave - effectively misrepresenting your availability to work;

- o Moved house and experienced broadband issues - didn't think to inform anyone that you were effectively unavailable for work – only attended meetings and was unable to be effectively employed outside this time.

- Meetings -

- o not attending team away days – either leaving it to the last minute or not informing line management that you were not intending to attend the meeting;

- o turning up late for meetings both virtual and in person meetings;

- o General lack of availability which has been noted by PDSF.

- Feedback -

- o have been asked on more than occasion to invite your LM to meetings and workshops on PDSF - which you have not done;

- o Not provided MYR comments

All of this behaviour falls into a number of categories which I don't believe meet the behaviour and conduct standards I would expect.

The process I followed was:

1. The alleged incident was brought to my attention.

2. I assessed the evidence and established level of seriousness.

3. I am now taking immediate action to resolve the situation.

4. At this point in time I will regard this as Minor Misconduct as your behaviour includes poor time keeping and failure to follow departmental policy and procedure. With that in mind, I will be taking Informal Action.

These means that I will be implementing a number of steps to bring your behaviour up to acceptable standards. These include the following:

- Daily check in at 0900 hrs - to outline your objectives for the day;

- Lunch to be taken at 1200 - 1300 hrs - exact timing to be your choice – but an hour is to be annotated in your calendar daily so that you take a break;

- Daily check out at 1700 hrs - to outline what has been achieved today and what support/guidance you might need going forward.

- All meetings to be accepted (not tentative) - unless there is a valid reason you are unable to attend

- From Monday you will be working on the L&D programme for the Deployable Model – this is a high profile piece of work which is feeding into a decision paper at 3* level

- All leave to be recorded in your calendar and HRMS

- Leave to be recorded on HRMS - with sufficient notice given to your LM

During our call you highlighted there has been a lot of disruption in your life. We can provide details of organisations which can support you and please ensure you are talking to Cassie who can provide advice and guidance.

You highlighted that you are concerned about attending in person appointments / meetings – I highlighted if this remains an issue we can have a separate conversation about becoming a permanent Home Worker at a later date.

Please take this a developmental opportunity – both Cassie and I are here to support you and provide mentoring and coaching.

I have attached the policy and guidance at the links below for your information. As this is informal action, a note is not placed on your HR file, however a record will be held by me for 12 months, with an aim to review every 4 weeks

[Hypertext links to the policy are given below]

Warning for being 2 minutes late

103. There is documentary evidence which supports Mrs Docherty's contention that there was a concern about the Claimant being 15 minutes late for a meeting. The Claimant recalled that occasion in his oral evidence and explained that he had been in another meeting which had overrun. He was unable during the whole course of the Tribunal hearing to identify evidence of his allegation that he had been treated detrimentally for attending two minutes late.

Occupational health

104. After this meeting Mrs Docherty sent an email mentioning that she was going to make a referral to Occupational Health, following a discussion about the Claimant feeling anxiety.
105. The Claimant characterises in his witness statement as "coercive control and an act of discrimination", which he elaborated during his oral evidence to suggest that during this meeting Mrs Docherty said to him "attend OH or else" which was a threat. This appears to the Tribunal to be an escalation in the nature of the allegation. This goes beyond what the Claimant complained of in the document submitted as part of the internal process in November 2022. We do not accept that a threat in these terms was made during this meeting.
106. On 11 November 2021 the Claimant attended an occupational health appointment, which lead to a report that he was anxious in relation to court appearances relating to family matter.

Feedback on Claimant's work

107. Stepping back in the chronology to the previous week, on 2 November 2021 Michael Little, a Project Lead in People Concepts & Development, Pan-

Defence Skills Framework (PDSF) provided Ms Bianco with some comments on the Claimant's contribution to a recent project. He listed in bullet points some objectives that had been achieved by the Claimant and some matters, in particular creation of a SharePoint page, which had not yet been completed.

108. Mr Little offered the following assessment which represented less than a full endorsement of the Claimant's work overall, although there were a couple of positive comments:

"Victor has added some progress as described above. I was slightly disappointed in the offerings regarding the sites he created as they are empty

Where we are working remotely, it is difficult to comment on how much Victor was present. Sometimes Victor would not attend some meetings or could be late for various reasons he explained. It is difficult to define the time vs effort that was applied. That said, he would normally respond at first opportunity if we initiated contact with him.

Victor as a person is easy to work with and seems to get on with the rest of the team without issue. I think the lack of direction from a change specialist throughout his time with us is shown in what has been produced. I know Victor is aspiring to get to a B2 level but I think there may be some build up to that currently. I think he needs a clearer defined project with a specified output to test his initiative and delivery skills. I think with this and the correct application from Victor himself he may get to the level he wants. Victor's help on the project and his time with us is much appreciated.

109. We find that based on this feedback Ms Bianco would be entitled to form the view that Mr Little was not particularly impressed with the Claimant's contribution.

November 2021 task

110. At the beginning of November 2021, with the agreement of Richard Smart the Claimant began working directly with Mrs Docherty on a Learning and Development (L&D) pathway for the Deployable Resources team. This was a part of a high-profile project that would contribute to a decision paper for a 3-star Executive Steering Group (ESG) meeting in December 2021. This was one of three workstreams or components of this project overall. Mrs Docherty was working with two other colleagues on the other two workstreams.
111. The Claimant's work was developing a pathway for internal or new arrivals that included training in project and change management, as well as commercial and financial training. He was initially working to a deadline of 26 November.

RAF Wyton Away day

112. On 18 November 2021, Mrs Docherty organised a team away day at RAF Wyton, aiming to broaden her team's awareness of various MOD departments. The event featured a range of speakers from the Defence Infrastructure Organisation, Defence Intelligence, and MOD Defence Police, along with a skills transfer session. She prepared a quiz on Leadership vs Management.
113. We accepted Mrs Docherty's evidence in relation to her own non-attendance at this event which she had organised and that of Comparator 1 at paragraph 176.2 of her statement:

"due to a severe chronic migraine related to my MS, I had to withdraw from attending the event at the last minute. This was particularly disappointing given the significant time and effort I had invested in organising the day, as well as my desire to personally thank the speakers for their contributions. Nonetheless, I immediately took steps to ensure the event would proceed smoothly in my absence. I contacted Cassie Bianco, who came to my home to collect all necessary materials, and I also informed my line manager that I would be off work for the day.

176.3. In addition, Comparator 1, with two days' notice, informed both Ms Bianco and me that his family had contracted COVID, preventing him from attending the away day. Like myself, he took responsible steps by communicating his unavailability promptly and subsequently went on sick leave"

114. Matthew Lawrence attended this meeting as he was due to be joining Mrs Docherty's team. The Claimant and Mr Lawrence met each other for the first time at this in person event. The two of them agreed in the tribunal hearing that at this event they got on well.

Further work on the Project Delivery Learning and Development Plan November/December 2021

115. Mrs Docherty gave a detailed description of the timeline of events on the project she worked with the Claimant on in November 2021.
116. On 17 November 2021 she reviewed work in progress and emphasised to the Claimant that the final product needed to be more polished with consistent formatting. She says she offered suggestions to enhance presentation quality and an index with tabs. Her focus was on the "end user experience". She told him that while there remained a deadline on 26 November 2021, papers need to be circulated by 1 December 2021, which would provide limited time for revisions.
117. On 22 November 2021 Mrs Docherty reviewed an updated work in progress. She told the Claimant that it was still too basic and needed further information. She provided links to examples to give him guidance.

118. On 24 November 2021 the Claimant asked for guidance on formatting tabs in PowerPoint, which was given.
119. On 25 November Mrs Docherty reviewed the work in progress with Ms Bianco. They became concerned that the Claimant was not going to make the deadline of the following day. He was still working on task 3 and had not yet started work on task 4, which was the business case. She requested from her line manager Richard Smart and was granted an extension of time for circulating papers, leading to a new deadline of 3 December 2021.
120. On 29 November the Claimant submitted an updated work in progress. Mrs Docherty provided further feedback. She was concerned that this stage that the deck was too colourful which would hinder readability and printing and had a concern about people with colour blindness. She provided a reference document with a more appropriate colour scheme.
121. On 1 December 2021 the Claimant submitted a 53 page version 3 to Ms Bianco and Mrs Docherty. Mrs Docherty felt that there were formatting issues, inconsistent fonts, uneven tabs, untidy text.
122. Mrs Docherty requested a final updated version on 2 December 2021, with the goal of meeting with Richard Smart to brief him on 6 December and circulate the document on that date.
123. Mrs Docherty was still not satisfied with the version provided on 2 December and on Sunday 5 December 2021 says that she spent five hours working on it.
124. A meeting took place on Monday 6 December 2021 by MS Teams. At that meeting the Claimant presented his final version of the document from 2 December 2021 to Mr Smart, Mrs Docherty and Ms Bianco.
125. There was a discussion about the length of the 54 page presentation and some navigation difficulties within it and focusing on the flow for the benefit of the end user.
126. In the internal investigation Mr Smart said that many of the slides in the presentation were repetitive, he felt that the Claimant had suggested that there were “no issues”, which was not the case. He felt that the presentation could have been different and better. He said that he did offer encouragement at the end of the call, but that is not to say that there work to be done to improve the output.
127. In a private follow-up meeting later on 6 December Mrs Docherty and Mr Smart agreed to use her “backup” version created on 5 December instead of seeking further revisions from the Claimant, principally because there was a short deadline, and she felt that the work was not fully of the standard needed.
128. Mr Smart in his oral evidence was not able to fully explain why Claimant’s version could not have been corrected by him for typographic errors and the like with feedback, other than saying that there have been a number of iterations and that there was a pending deadline. He accepted in response to

the Claimant's questions that feedback is a way that people learn and that this 30 minute discussion on 6 December of points that could be improved on the presentation was "not particularly out of the norm".

129. The problems highlighted by the Respondent in the final version of the PowerPoint produced by the Claimant struck the Tribunal as being fairly minor, albeit we accepted that Mrs Docherty genuinely felt that it was not yet a final version for a demanding 3-star Executive Steering Group and some further work was in her view required.
130. The Claimant said during the internal investigation that he felt it was bad faith to ask him to present a version when there was a "backup" version had been prepared which he was not aware of. We entirely understand why he felt like that once he found out about it. It must have felt to him that work was being done behind his back on a project in which he had been involved. Mrs Docherty prioritised completion of the presentation over helping the Claimant to develop. We were left with the impression that this might have been managed in a different way which might have reduced the likelihood of demoralising the Claimant.

Management discussion

131. Mrs Docherty, Mr Smart and Ms Bianco were in agreement that the quality of the work produced by the Claimant was lower than they expected. They had a discussion about how to manage it. They decided against going down a formal performance process. Ms Bianco advocated giving the Claimant some feedback, not in a formal process, but highlighting that it came across as if he did not care about the quality and appearance of his work. Mrs Docherty agreed with the course of action. She says that at this time they felt that they had seen an improvement in the Claimant's conduct.

7 December 2021 informal warning

132. Mrs Docherty had a meeting with the Claimant on 7 December 2021 to provide verbal feedback on his final product.
133. There was a dispute between the parties about a conversation about whether this was intended to be a formal or informal meeting.
134. One of the things that the Claimant said emphatically during cross examination was that Mrs Docherty made clear her intention to him that she was going to be giving him a formal warning, and it was only his reminding her of the correct procedure i.e. that he had no trade union representation which led her to making this an informal warning. This is not something that is clear from his witness statement, nor was it raised by him in his "explanatory statement" document which he submitted following on from this meeting.
135. We find that Mrs Docherty had always intended that this be an informal meeting. We accept her account that at the outset of the meeting the Claimant accused her of not following procedure, and about 10–15 minutes into the meeting demanded a warning in writing. She asked him to clarify which aspect

of the policy he believed was not being followed. He responded that he had not received a prior warning and that no witness was present in the meeting. She explained that this was an informal poor performance warning, not a formal one, and therefore did not require notice or a witness. It may be that the Claimant genuinely felt that Mrs Docherty was changing approach. If that was his impression at the time, we find he was mistaken and that she had always intend this to be an informal discussion.

136. At this point, we find that the Claimant began raising his voice, expressing his dissatisfaction with how the meeting was proceeding.

137. Mrs Docherty says she remained calm and asked the Claimant to lower his voice and not be aggressive. She says that the Claimant replied with words to the effect:

"I shouldn't say that to a Black man with a beard as this is a trigger phrase."

138. Mrs Docherty says that she said

"How do you think it feels being a white woman with a disability (Multiple Sclerosis) and being shouted at?

"Do you not think you come across as aggressive by shouting at me?"

139. Mrs Docherty accepts in her witness statement that she was "tense". It seems that was a difficult meeting viewed from both participants' point of view. It seems unlikely that she was entirely calm.

140. This exchange over, however, it appears that both of them calmed down and the conversation carried on.

141. During this meeting Mrs Docherty asked the Claimant for his views on whether this product was suitable for presentation to a 3-star ESG board, or whether it was representative of four weeks work. She felt that this work was below the standards to be expected of an SEO.

Different versions of 7 December meeting

142. In very broad terms the parties agree that there was an exchange along the lines set out above, but there are some differences as to the precise language used. Where there are differences, we have preferred Mrs Docherty's version of events.

143. During the course of the hearing the Claimant alleged that Mrs Docherty had said to him "as a black man she found me intimidating". That was a significant escalation.

144. We do not find that this was said. This was inconsistent with the way that the Claimant herself has described the incident on earlier occasions. First, in March 2022, "As a woman, she found me threatening and intimidating" [1873].

Second, in November 2022, “She also stated that as a woman with a disability she found me intimidating.” [2671]

Claimant’s “explanatory statement” dated 7 December

145. By an email sent on 7 December 2021 at 17:07, the Claimant sent an email with an attached 8 page “explanatory statement”. That statement contained various matters in which he put forward his version of events in some detail.
146. In relation to the airport run of 12 October the Claimant provided additional detail and explained that he had to pick up his pregnant sister and her infant toddler who has a heart defect.
147. The Claimant set out various personal circumstances which were personal issues were temporary and did not require external help.
148. In the covering email Claimant mentioned checking his “recordings” which led Mrs Docherty and others to believe that he was recording conversations with them, especially when put together with the fact that he would login both on his phone and laptop to video meetings. The Claimant now says that this was some sort of spellcheck error and this should have said “records”.

DBS case worker allocated

149. On 8 December 2021, Mrs Docherty contacted DBS people services to register a complaint about the Claimant and was allocated a caseworker, Janet Fletcher.

Misconduct warning

150. Following the meeting on 7 December, Mrs Docherty wrote an email on 10 December 2021 which stated that his recent work delivered on 26 November 2021 required “a lot of steering” “and despite which still didn’t deliver a final draft product on 2 December”.
151. She wrote

“Your delivery standard is not consistent enough for what I would expect of a C1 (CS grading guidance attached for your reference).

Given the deadlines I was working to, when it became obvious by Thu 02 Dec 21 (... attached) the final draft product was not going to be to the standard required, I took responsibility and time over my weekend to deliver the product I needed for Mon 06 Dec 21.

While I was flexible about the specifics of the final product produced e.g. colours etc, I made it clear all along that it had to contain certain detail such as the Level 6 Apprenticeships, be easy to read so therefore was expecting an attention to detail such as consistent formatting and be easy to navigate. You were informed this was a requirement on more than one occasion.

I expected a product which was a good final draft, that was coherent and delivered a well thought-through narrative that had been checked for formatting. Cassie Bianco and I were always on hand to provide guidance and support to help you produce this product.

152. Under the heading “next steps” she expressed the hope that the Claimant would take on board feedback looking into his next project. She went on:

“We also spoke about you potentially being deployed on Benefits work in Jan 22, however, at this point I do not have the evidence to give me the confidence that that you will produce work that is of sufficient standard and quality.

...

On the completion of this work, we will review your performance and, unfortunately, if you are not performing at a standard expected of a C1 we will need to consider moving you on to formal Managing Poor Performance process.”

Matthew Lawrence as tasking manager

153. From 10 December 2021 the Claimant was allocated to a task with Matthew Lawrence, Grade 7 Change Manager, who was new to the team. Mr Lawrence was told by Mrs Docherty at the start of working with the Claimant that the latter had “performance issues”. Mr Lawrence was due to be a “tasking” manager while the formal reporting line remained with Mrs Docherty.
154. In a meeting on 10 December 2021 the Claimant explained to Mr Lawrence that her consider that there was a “dispute” between him and Mrs Docherty and described her as acting in “bad faith” in relation to putting him on a “PIP” (i.e. performance process).
155. In the short period of time where Mr Lawrence was the tasking manager for the Claimant (13 December 2021 to 19 January 2022) their relationship deteriorated quite rapidly. Mr Lawrence’s perspective was that the Claimant required a lot of detailed feedback on his work and produced things at the last minute.

Claimant’s grievance letter 29 December 2021

156. On 29 December 2021 the Claimant created a grievance and dispute resolution letter with a chronology, some supporting evidence and a cast list of line managers and others. This contained the following introduction:

“I am writing to tell you that I wish to raise a formal grievance. The details are as follows:

□ Bullying and harassment by the B1 on my team Sharon Docherty and B2 Cassie Bianco

- ☐ Coercive control and Psychological abuse by Sharon Docherty
- ☐ Offensive, intimidating, malicious and insulting conduct by Sharon Docherty
- ☐ Abuse and misuse of power to undermine and cause emotional harm
- ☐ Selective isolation and mistreatment by Sharon Docherty
- ☐ Breach of human rights by Sharon Docherty
- ☐ I have no planned leave for the next 3 weeks.

I would also like the opportunity to share with you my proposals for resolving this grievance, which are Sharon Docherty to be removed as my countersigning officer and to be placed on a matrix system of management that ensures that I am not in her chain of command.

I would like to have a meeting with you to discuss my grievance and look forward to hearing from you.

157. The Claimant says that he submitted this on 4 January 2022. It may be that it was 8 January. It seems that nothing turns on this slight discrepancy of dates.

Claimant rude to Mr Lawrence

158. On 5 January 2022 the Claimant wrote to Mr Lawrence in response to some feedback that he had provided on some work of the Claimant. A sentence in Mr Lawrence's email was incomplete, which the Claimant highlighted in an email of response written in somewhat caustic and disrespectful terms:

"The irony that you would make such an error as to sending an email with incomplete sentences while criticising someone else's emails as looking "rushed" is surely not lost on you. I cannot imagine making such a mistake. The only realistic scenario is that you copied and pasted the entire email from another source/third party and as such failed to move the curser all the way through.'

159. The reference to cut and pasting the email from third party was, we find an allusion to the Claimant's view that Mrs Docherty was in fact controlling the communications that Mr Lawrence was sending to the Claimant.
160. Mr Lawrence was offended by this suggestion that he was merely Mrs Docherty's puppet.

PA#1: Claimant's grievance January 2022

161. The Claimant initiated a grievance process initially by sending an email on 4 or 8 January 2022.

162. This was dealt with by an HR caseworker Mr Ryan Shaughnessy, based in Stockport, who appears to have spoken by telephone or teams to the Claimant and wrote to him on 10 January 2022 with a form and provided details of the BHDV process (BHDV is short for Civilian Formal Bullying, Harassment, Discrimination and Victimisation Complaints Policy). In common with many employers the Respondent appears to have a separate process for complaints of this sort, as distinct from a general grievance.
163. Once in receipt of the correct form under BHDV, the Claimant submitted a grievance about Mrs Docherty on 12 January 2022 at 17:45.
164. The Respondent does not dispute that this as a protected act. The form is little more than a tick box in which bullying, harassment, discrimination, victimisation are all ticked. In this standard form Mrs Docherty is the first respondent and Ms Bianco is the second respondent. The outcome that the Claimant was seeking was to be removed from Mrs Docherty's reporting line.
165. This grievance should be read together with the Claimant's letter dated 29 December 2021, the material content of which is above.
166. The BHDC complaint was "processed" by the Respondent on 14 January 2022.

Managers' knowledge of grievance

167. The Claimant says that he told Andrea Eagle, Ms Parsons, Mr Smart, and Fiona Byrne about this grievance.
168. Mrs Docherty says that none of these people informed her, nor did they provide details of his complaint. Mrs Docherty's case is that she did not ever see this complaint until 6 April 2022 when she says she became aware of it. The Claimant did not challenge this.
169. The Claimant did not challenge Matthew Lawrence's evidence that he was not aware of the Claimant's grievance until after the alleged acts of victimisation said to have been committed by Mr Lawrence had occurred. The Claimant confirmed in the hearing that whereas at the time of submitting the particulars of claim he had believed that Mr Lawrence must have been aware, he did not now at the Tribunal hearing have a basis to challenge Mr Lawrence's lack of knowledge.
170. It is Ms Parsons' unchallenged evidence that she was surprised to find out in around late April 2022 that a complaint of bullying against Mrs Doherty had already been submitted by the Claimant in January. We note however that she believed that the Claimant was raising allegations of discrimination against her personally.

Change line management

171. On 10 January 2022 Eleni ("Helena") Parsons joined the team began reporting to Ms Docherty and the Claimant started reporting to Ms Parsons the following day.

Michael Schwab-Beaugrand feedback

172. Michael Schwab-Beaugrand, a fellow PMO had a meeting with the Claimant on 12 January 2022, at the suggestion of Mr Lawrence so that a different person could give him feedback. This was done to address the Claimant's concern that Mrs Docherty was controlling all of the work that was being given to him.

LinkedIn complaint

173. On 14 January 2022 the Claimant sent a message via LinkedIn to Dwayne Branch. Mr Branch who had previously been Mrs Docherty's line manager was now no longer working for the Respondent and had moved overseas to a role in a well-known private sector consulting firm. The Claimant wrote:

"I am being bullied at work by Sharon Docherty and I am at risk of a mental breakdown. I am being subjected to professional gaslighting and mobbing by her and her minions."

174. Following on from this Mr Branch spoke to Mrs Docherty in a telephone conversation. This appears to have left her, probably wrongly, with the impression that the Claimant's complaint about her was broadcasted to multiple recipients outside of the Respondent organisation.

Mrs Docherty's complaint about Claimant

175. On 14 January 2022 Mrs Docherty submitted a formal complaint against the Claimant in relation to the LinkedIn message. She says at this stage she was unaware of his complaint against her. In that 4 page document she set out some of the background and complained in particular about the LinkedIn communication. This complaint contained the following:

"I am submitting a formal complaint against Mr Stanley-Idum for making serious accusations about my behaviour, both inside and outside Defence, accusing me of "gaslighting and mobbing" him. I believe this behaviour is both vexatious and malicious given I am currently in the process of addressing the long-term issue of his conduct and performance through the correct policy procedures.

Mr Branch contacted me after receiving the message as he was concerned not only to receive the message himself but given how it was written. Mr Branch was alarmed this message could have gone to a number of individuals and as such was concerned about my wellbeing and reputation. To find out a member of staff has made such allegations in such a manner, outside of Defence, could seriously impact on my professional reputation both inside and outside Defence. I believe all of his actions are an attempt to bully and intimidate me. His pattern of behaviour includes subtle actions such as failure to attend meetings, meet deadlines and now includes spreading malicious rumours about me. It is recognised such individuals, when a manager initiates disciplinary

action to address such counterproductive behaviour, can result in the staff member retaliating with a grievance or an accusation of bullying (or similar) against their manager as an intimidating tactic. I personally feel attacked for being a professional in tackling a long-term issue of poor performance and misconduct by Mr Stanley-Idum and this is a deliberate case of an individual being malicious and vexatious. Following notification, I felt physically sick and unable to concentrate. I have been unable to sleep and it is causing me anxiety.

4. I feel this constitutes as Bullying in that his comments appear to be trying to:

- Make me less respected in the business;
- Spreading malicious rumours about me inside and outside Defence; and
- Publicly undermining my authority.”

176. Following on from this Mrs Docherty told her team that she would no longer be managing the claimant.

Mr Lawrence complaint about the Claimant to Mrs Docherty

177. On 15 January 2022 Mr Lawrence emailed Mrs Docherty with an email of complaint about the Claimant’s conduct with a chronology of events, which included the disrespect for email of 5 January and a meeting which had taken place on the previous day (14 January) in which the Claimant had said to Mr Lawrence’s face “oh of course you have to go to Sharon to get the email because it’s Sharon’s feedback”.

Alleged false allegations breaches of data protection act

178. On 17 January 2022 Mr Lawrence the Lawrence queried the Claimant’s approach of logging into a Microsoft Teams meeting using both his laptop and also his mobile phone as follows:

“I’m also concerned about information security and I have a few questions that I’d like to clarify with this in mind.

You dialled into the call on Friday with the following number: +447812xxxxxx. You did mention that it was yourself dialled into the call on Friday - I’d like you to confirm this please. If this number wasn’t yourself I will have to riase a data breach.” [sic]

179. The Claimant has characterised this as harassment and false allegations of breaches of the data protection act, which misrepresents and overstates what in fact occurred.

Claimant's disrespectful email to Mr Lawrence

180. On 18 January 2022 the Claimant wrote to his tasking manager Matthew Lawrence in trenchant disagreement on the topic of task 3. The Claimant's email was rude and disrespectful to someone who was undertaking supervisory duties for him. The email begins

"You are wrong."

181. The next paragraph carries on

"Again. I declined to take on this task."

182. The final couple of paragraphs sets out a line-by-line analysis of Mr Lawrence's LinkedIn profile, with the Claimant's comments. The Claimant's intention apparently was to emphasise that Mr Lawrence had more change management experience than he did. Mr Lawrence felt that this was disrespectful, inappropriate and the tone taken was sarcastic. He felt that the Claimant had taken information from his LinkedIn profile inappropriately, and began to be concerned, in particular because he understood that Mrs Docherty had suffered the experience of the Claimant going outside of the Department to raise his complaints with Mr Branch, that the Claimant was going to do something similar to him. Mr Lawrence decided to hibernate his LinkedIn account and told the tribunal that some three years later he had still not reactivated the account because of this experience. He was plainly affected by what he perceived to be an unnecessarily combative approach by the Claimant. It was shortly afterward that Mr Lawrence ceased task managing the Claimant.
183. We find that Mr Lawrence was distressed by the Claimant repeatedly asserting that all of his tasking that he was discussing the Claimant came directly from Mrs Docherty and his openly defiant communications.

Mr Lawrence complaint about the Claimant to Ms Parsons

184. On 19 January 2022, Mr Lawrence filed a complaint about the Claimant's behaviour with Ms Parsons as the Claimant's line manager, with Mrs Docherty, his own line manager. Mr Lawrence says that it was on 19 January 2022 when the Claimant refused to do task three of the four tasks that they had been working on together. His email contained the following:

"As I provided feedback, Victor became very defensive and hostile which manifested as him talking over me and being direct and abrupt to the point of rudeness. His tone was argumentative and I felt he didn't appear open to ideas or my thoughts on the topic.

In response to feedback, Victor used phrases such as 'no', 'YOU told me this',

'YOU said to do that', 'are YOU with me' implying I had misled him on elements of the task. I felt that the tone used was accusatory and not professional.

I didn't feel that Victor was listening to my comments/feedback, taking them on-board or even considering challenging them appropriately. This meeting was therefore characterised by tension, frustration and I felt upset and shaken by this.

During this meeting and on other occasions Victor made disparaging comments about other members of the team and this also made me feel uncomfortable in addition to appearing to me to be completely unprofessional.

The meeting was unpleasant for me as a result of Victor's behaviour.

In the days after this meeting I have received a number of very direct and abrupt email messages with a confrontation tone – I have forwarded these over to you as his line manager.

Following this meeting, I now feel very apprehensive and concerned about providing feedback to Victor. This is compounded by the fact that he has made multiple comments in relation to his mental health and wellbeing that suggest he is not able to receive, accept and act upon feedback in the way that I would expect of a colleague.

Mr Lawrence's complaint

185. Also on 19 January 2022 Mr Lawrence wrote further to complain to Ms Parsons about the Claimant as follows:

“Apart from the fact that Victor has declined to start on task 3, I'd like to highlight the email chain below – which shows, in my opinion, a very rash, ill-considered and unprofessional approach to problem solving.

The MOD Race Network he contacted contains 353 recipients and I don't believe this is an appropriate channel to identify solutions to IT issues (especially since the wrong information has been provided). The tone of the email and the subject line are not professional and certainly not something I would expect considering the question in hand. Unfortunately, I feel this approach to contacting external colleagues outside of our team risks our reputation as a strong, professional, reliable and skilled team.”

186. The Claimant says that he did not become aware of this complaint until approximately six months later.

PA#3 – meeting with Ms Parsons 21 January 2022

187. The Claimant met his new line manager Ms Eleni (Helena) Parson in a 1-2-1 meeting on 21 January 2022. Her account of that meeting includes the following:

14. He was not happy at the time: he didn't feel there were any issues with his work deliverables, hence any feedback was not really valid, and he started making serious allegations against his managers and especially against Ms. Docherty, who had given him a warning in the recent past The Claimant mentioned specifically "in MOD they are "all" bullies" and that "she (referring to Ms Docherty) won't get to me, I will get to her". It came across as really sinister and a bit scary. It seemed like he wanted revenge, something I had never come across before in my career and could not comprehend.

16.The Claimant did mention that he had "jumped" a level and had achieved a double promotion to SEO level in the past, during his employment in the MOD. I asked him whether he thought there were any gaps due to this that he would need some training to do, but he confidently believed he had none and that he was looking at another promotion.

18. he mentioned a lot of unrelated things with no structured direction, such as that he had a law degree, he was in the process of completing a master's in software engineering and had done training in change management.

188. In this conversation the Claimant told Ms Parsons that Mr Lawrence's feedback was "gas lighting" and described himself as "absolutely brilliant".
189. Ms Parsons said that during this meeting the Claimant discussed with her his recent experience working in change management with Mr Lawrence. Although the Claimant said he had undertaken related training he acknowledged he was not experienced in change management. She says that the Claimant and stated that he had no interest working in change management and that it was agreed that he would be assigned to tasks other than change management.
190. It is certainly the case that Ms Parsons communicated to a colleague Mr Cottingham by email on 24 January 2022 that the Claimant would be removed from the third task of the four tasks he had been working on.

Whether discrimination raised in meeting on 21 January 2022 (vetting)

191. Ms Parsons says that the Claimant told her that his request for Developed Vetting (a level of security clearance) had been rejected by the UK Security Vetting (UKSV), a part of the Cabinet Office, and that he had appealed the decision and was taking them to court. He said he believed it was due to his dual nationality and then he told the Claimant "you're Greek, they wouldn't take you either", which Ms Parsons says she found an unnecessary and inappropriate comment.
192. The Claimant denies having made this comment, we find that he did make a comment to this effect. It is evident from contemporary evidence that vetting was an issue on Claimant's mind at that time. We find that it is plausible that

this would have come up in conversation. It would be a curious thing for Ms Parsons to make up and we found her account plausible.

193. We find that the Claimant did make some reference to vetting, his view that this was discriminatory and that the policy on security vetting might also affect Ms Parsons as a person with dual nationality.
194. Although this was a point of dispute, we find this conversation was not significant in influencing the Claimant's treatment. Vetting policy fell outside of the work of the Claimant's department and this conversation could not be seen as criticism of Ms Parsons or even Mrs Docherty.

Whether discrimination other than vetting raised on 21 January 2022

195. Ms Parsons accepts that the Claimant raised discrimination, but it was confined to his vetting status. The Respondent's amended grounds of resistance made a limited concession that this amounted to a protected act.
196. As to whether the Claimant had raised that he had been discriminated against by bullying, Ms Parsons' witness statement originally read:

"On 21st January 2022, during my 1:1 meeting with the Claimant, he expressed concerns about bullying **and discrimination**. I advised him to raise his concerns formally for them to be investigated"

[emphasis added]

197. In supplementary questions from counsel at the beginning of her oral evidence she corrected her statement to withdraw the words "and discrimination". The Claimant immediately raised an objection to that correction, which we noted, and explained to him that both he and the Tribunal would have the opportunity to ask her about this change. The Claimant was understandably concerned that the Respondent had resiled from their admitted evidence on this point.
198. Ms Parsons explained that when she wrote the witness statement she used the words "bullying and discrimination" because "it's the language that we use" rather than because the Claimant said it. Ms Parsons gave the example of BHDV (which stands for Bullying, Harassment, Discrimination, Victimisation) which is used as a kind of shorthand for a complaint of one of these matters, without necessarily meaning that this term encompasses all elements in every instance.
199. The Claimant did in this meeting raise that he had felt bullied by management. Given that Ms Parsons had only just taken over line management responsibilities this could not be thought to be directed at her personally.
200. Did he also allege that this bullying was discrimination? Ultimately, although this was somewhat finally balanced, we accepted Ms Parsons' evidence on this point that he did not suggest that the bullying was discriminatory for the following reasons.

201. First, there were two follow-up emails sent by Ms Parsons on Monday 24 January 2022 (the working day after the discussion with the Claimant) which mentioned bullying but not discrimination. The first was sent at 09:10 to Paul Cottingham, who was not at the meeting on 21 January, but had been involved in supporting the Claimant more generally. In that email she referred to bullying allegations and “advised and encouraged Victor to either raise a case directly or I can facilitate one for him”. The second was an empathetic email sent at 10:52 to the Claimant, which referred to “bullying behaviour”. She emphasised that there was zero tolerance for such behaviours and that such matters should be raised and investigated.
202. Second, there is evidence to support that BHDV (which stands for Bullying, Harassment, Discrimination & Victimisation) is used as a kind of shorthand when not all of these elements are present. Ms Parsons gave the example of paragraph 56 of her own witness statement in which BHDV is used in exactly this way, as a shorthand for Mrs Docherty’s formal complaint which was a complaint about the Claimant’s conduct, but not in nature discrimination or victimisation.
203. Third, there is not clear contemporaneous evidence to support the Claimant’s account. When on 10 June 2022 (4 ½ months later) was asked about the 21 January 2022 meeting, he said he could not remember. The first time that the Claimant suggested that he had alleged discrimination on 21 January 2022 was in October 2023 in the Particulars of Claim, which was over 20 months after the meeting took place.

Training

204. There was a discussion about training within the Respondent. Ms Parsons formed the impression that the Claimant wanted to do all training that was available whether or not there was a specific purpose to doing it. She found this rather scattergun approach confusing and invited him to go away and reflect and prioritise his training.
205. Ms Parsons set out in her witness statement 40 separate pieces of training that had been undertaken by the Claimant between 2020 when he joined the team and early 2022, and yet pointed out that on 15 February 2022, despite all this training, he confirmed he had not done his mandatory training for the year.

Email follow up to 21 January

206. Following up from the meeting on 21 January 2022, Ms Parsons wrote to the Claimant in an email on 24 January 2022, which included a reference to bullying but not discrimination (1351):

“You have expressed certain views of bullying behaviour in the team – I will reiterate our organisation has zero tolerance in such behaviours, any valid concerns should be raised and investigated as per regarding procedures. These will include a DBS case worker and Independent party for those matters to investigate all parties and allegations. I strongly advise if you experience or

witness such behaviour to raise a formal case, alternatively, should you provide the necessary information I can facilitate this for you. Your decision for the moment is to take the time to think about this and confirm. It may also be good to speak to our HR BP Michelle Dawkins in the meantime, if you haven't done so already."

207. Although the Claimant had already raised a complaint under the relevant policy, he did not mention this to Ms Parsons but rather replied:

"Thank you Helena. I would ponder on these issues in time for our next 1:1 Session."

208. Ms Parsons also followed up the same day with an email to Paul Cottingham a colleague who had become involved at the Claimant's request. That email confirmed that the claimant would be assigned a separate piece of work to "reduce tension and emotion in the team" which she said that the Claimant welcomed. There was a reference to bullying allegations but no reference to discrimination.

Ms Parson's impressions of the Claimant's work

209. Moving on from the meeting of 21 January, Ms Parsons was critical of the Claimant based on her experience as a line manager. Her assessment of the Claimant's work and working approach was that she would not hear from him, that she had no idea what he was doing, and when she finally saw his work, she found it was incomplete, not fit for purpose neither justified the amount of time he had spent on it. She noted that he had marked on his annual record that he had "exceeded" on all of his objectives for the performance year, which from her point of view was not accurate.
210. She contrasted that with another direct reports who would engage with her daily, ask questions and keep Ms Parsons updated on work activity. She said communication with the Claimant was poor. She found the Claimant to be argumentative and confrontational and she got the impression that he was not interested in work. She agreed with an observation made by Mr Mann that the main problem with the Claimant was his attitude, and had he not be so argumentative and confrontational the other issues would have been resolved.

PA#5: Richard Smart – alleged complaint about discrimination

211. The timing of this allegation as captured in the list of issues (March 2022) appears to be wrong and in fact relates to events in January 2022.
212. There was a discussion between the Claimant and Richard Smart, who was Mrs Docherty's line manager which arose out of a "coffee roulette" scheme which "randomly" paired individuals for a chat. Initially they had a conversation on 19 January 2022. Mr Smart says that although the Claimant had some concerns he wanted to raise, at Mr Smart's direction the conversation stayed as a "getting to know you" conversation which lasted 40 – 50 minutes. They had a follow-up call to discuss the concerns.

213. As to the Claimant's race, we accept Mr Smart's evidence that prior to meeting him, he did not realise that the Claimant was a black male, as his work IT online profile photo was of a white male soldier. Mr Smart asked him about the photo and the Claimant said that he liked the military. While the different profile photo seemed unusual (and apparently at odds with MOD policy), Mr Smart did not seek to press the issue given that this was a social setting.

28 January follow-up call with Mr Smart

214. The follow-up call took place on 28 January 2022.
215. According to Mr Smart in that meeting the Claimant expressed concerns about Mrs Doherty, that she was not accommodating of him, she had concerns about his presence at meetings and that she was setting constraints on his way of working. Mr Smart had some awareness of Ms Docherty's concerns given that she reported to him. During the conversation Mr Smart tried to get the Claimant to appreciate that Mrs Doherty might have reasonable concerns about timeliness, attendance at meetings and work contribution. He says that there were no further steps agreed and at no stage during this conversation did the Claimant make mention of race, racial bias or anything connected to discrimination.
216. We accept Mr Smart's evidence that discrimination was not mentioned in these discussions and that the Claimant's allegation at that stage would be better characterised as "micromanagement".

Mr Smart talks to Ms Parsons about Claimant's allegations

217. It was around this time that Mr Smart asked Ms Parsons for her view on allegations that were being raised by the Claimant.
218. Ms Parson said this in the internal investigation:
42. When asked if she could recall which colleagues had told her that VSI had spoken about SD EP said they did not come to her apart from Richard Smart (RS) who was their 2 star director. EP said he had asked her directly what she thought about the allegations that VSI was raising, as VSI's line manager. EP said she told him she had not witnessed anything addressed to her yet counting just one week in the team, had spoken to both sides but could definitely see that VSI had some performance as well as behavioural issues but he had not been hostile to her by that point.
219. On the balance of probabilities we find the Ms Parson was not being precise about the conversation taking place exactly one week into line managing the Claimant. More likely we find this conversation was after Mr Smart's conversation with the Claimant on 28 January about micromanagement, i.e. a little over two weeks into Ms Parsons line managing the Claimant. It was still early days in that reporting line.

Allegation of exclusion from training February 2022

- 220. On 27 January 2022 Mr Lawrence sent out to various team members details of who would be attending Agile Change Training at three different sessions. there were two “Agile Change Agent” courses running 2 – 3 & 7 – 8 February and a more advanced “Agile Change Coach” course running 17 – 18 February.
- 221. Not all colleagues were invited. There were 23 colleagues in the 2* area who did not receive this training. Mr Lawrence’s identified 2 B2 grade staff, 3 C1 grade staff and 4 C2 staff who were not invited to the training.
- 222. Focusing more narrowly those reporting to Mrs Docherty, there were two individuals who did not attend this training, namely Anita Gyampoh (who elected not to do it) and the Claimant who was not given the option.
- 223. Of four different comparators relied upon by the Claimant in respect of training, the Claimant was the only one who had both recently completed PROSCI training and was booked onto the FOL course. One of the comparators (Anita Gyampoh) was booked onto the FOL course. The other three had received PROSCI training.
- 224. Ms Gyampoh who had both recently completed PROSCI training in September 2021 and was scheduled to attend Focus on Leadership course in February 2022.
- 225. Subsequently, as detailed further below, the Claimant became aware of the decision not to include him in training and challenge this internally and externally.
- 226. We find that there was a finite budget for training and that not all employees were put in for this training. In the case of the Claimant he had at that time recently received a large amount of training an a wide range of topics and specifically had already received Prosci and was due to receive a 3 day FOL (Focus on Leadership) training course in February. Furthermore had expressed in his meeting with Ms Parsons on 21 January that he was not interested in further change management work given his recent experience. We note Ms Parsons’ evidence that the Claimant was already a trained and qualified change manager.

Follow up 1-2-1 on 1 February 2022

- 227. There was a further follow-up meeting between Ms Parsons and the Claimant on 1 February 2022 in which Ms Parsons documented that the Claimant had confirmed that he was going to deal with the concerns of bullying (no mention of discrimination) personally and did not require any further support from line manager.

Claimant queries training exclusion

- 228. The Claimant first queried his apparent exclusion from Agile Change training in an email to Ms Parsons and Mr Lawrence on 2 February 2022 [1431]:

It appears that there has been an Agile Change training course which the entire team appears to be on which I seem to never have received an invitation, notification or an expression of interest invitation to. I would want to be added to this training course alongside the rest of the team.

229. Mr Lawrence replied

“It’s great to hear that you’re keen to undertake this training and it’s very much our intention that everyone will be trained in the Agile Change Agent course. Due to constraints on the availability of our trainer Melanie, there are limited places on these courses. It’s also a very busy time in our team at the moment with lots happening and we need to be sure to balance training with our business as usual and make fair/equitable decisions when it comes to training courses. I’m aware that you’re undertaking the Future Leadership Programme later this month and have recently attended the Prosci training course so I made a decision to prioritise other colleagues in the team”

230. The Claimant replied referring to the circumstances of four of the comparators that he now relies upon in this claim (Michael Schwab-Beaugrand, Beatrice Koroma, Anita Gyampoh, Abisayo Rahman Agbenia) alleging “you made a conscious decision to exclude me” from the distribution list of invites.

231. On 2 February 2023 the Claimant responded to Mr Lawrence with Ms Parsons in copy, continuing to content that he had been excluded he wrote:

“Judging by your email, you made a conscious decision to excluding from the distribution list of invites. That means that when the invites were being sent out, my name was consciously excluded.”

232. Ms Parsons responded the following day on 3 February. She confirmed to Mr Lawrence that she was happy for him to prioritise attendance for courses. She replied to the Claimant to say that she still awaited his training records in order to complete an assessment and prioritise future training. She also flagged up that he had large absence coming up in future. She emphasised that they had agreed to prioritise the leadership course. She said she would be reluctant to approve any further training until they had completed the assessment and medically that the action point was now his.

233. The Claimant responded to say that no one else had been required to submit a personal development plan. He characterised Agile Change training as “team” training.

234. The email exchange went on back and forth. Ms Parsons made the point that the Claimant had not mentioned any interest in change management, in fact “quite the contrary”, which would seem to be a reference to the meeting on 21 January.

235. On 4 February Ms Parsons suggested to the Claimant that his lack of understanding of how training had been allocated did not justify an inappropriate and insulting message with accusations. She said that she was deeply disturbed. Nevertheless the Claimant carried on trying to argue that he been excluded from team training and had been actively excluded, making the point that there were people who had not even started in the Respondent who have been placed on the course and arguing that he did not accept the justifications that have been put forward to him why he had not been included in training.

Claimant contacts external training organiser

236. The Claimant directly contacted the external provider for the ACA training, by email:
- “I have noticed that a lot of people seem to be on this course. Are there any other ACA courses booked for the coming weeks?”.
237. This led to Mr Lawrence raising on 4 February with Ms Parsons and Mrs Docherty his concern about the various “rude in tone and forceful and abrupt to the point of being threatening” emails from the Claimant and furthermore that he was concerned that the Claimant had spoken to the external trainer. He felt that this was unprofessional and potentially undermined his relationship with the external provider.
238. Ms Parsons responded to Mr Lawrence, apologising for the Claimant’s conduct saying that she also felt harassed by his behaviour which she felt was a persistent attempt to “force” her to approve the government resources without a justification. She said that she would be taking further action.

MI task February

239. On 15 February 2022 Ms Parsons provided the Claimant with a brief for the next work that he was going to work on. This was described as “MI activity”. This brief provided details of the background, scope, requirements, goals, “how” – guidance on consulting with IT colleagues or others and timings.
240. This work had a fairly quick turnaround of one week. In respect of timing she wrote:

Exercise completed by COP 22nd Feb (1 full week)

Presentation to Michael/Matt (in my absence) 23rd Feb – to allow time to incorporate any feedback notes etc.

(Victor on leave on 25th Feb)

28th Feb brief to Helena

Ms Parsons complains 16 February 2022

241. On 16 February 2022, Janet Fletcher case worker recorded Ms Parsons' concerns about potential misconduct, following discussions on Monday and Tuesday, which from the context must have been 14 and 15 February 2022. The first discussion between Ms Parsons and Ms Fletcher was on the same day that Mrs Docherty presented her grievance but before the Claimant's conversation with Fiona Byrne.
242. In an email on that day Ms Fletcher recorded that "given the evidence you have gathered you wish to proceed with formal minor misconduct".

Informal conversation with Fiona Byrne

243. On 16 February 2022 the Claimant had an informal conversation with Fiona Byrne, who was a Diversity & Inclusion Adviser
244. This led to Ms Byrne later logging an incident suggesting that the Claimant complained that Mrs Docherty had been using racial stereotypes of laziness and dishonesty to initiate a negative performance review.

PA#2 - meeting 22 February 2022

245. Ms Andrea Eagle had been tasked with running a Strategic Hub Bullying, Harassment, Discrimination Climate Assessment on 13 January 2022. This followed on from a "People Survey".
246. The Claimant says that he complained to Ms Eagle on 20 January 2022 about discrimination. He was mistaken about the date. Ms Eagles' account is that the two of them had a telephone conversation over a month later on 22 February 2022 in the context of a BHD Surgery (Bullying, Harassment, Discrimination). She accepts that the Claimant complained to her about excessive supervision and "gas lighting". Her evidence is that the Claimant did not mention that he had been discriminated against.
247. Given that Ms Eagles' account of the timing of this discussion is supported by contemporaneous email communication, we accept it. Given also that Ms Eagles was specifically tasked with dealing with matters of discrimination, we think it more likely than not that she would have remembered had the Claimant raised discrimination. On balance we find that the fact that she did not remember an allegation of discrimination was because it did not occur.
248. The Claimant did not challenge that Ms Eagle kept their conversation confidential.

Allegation that Ms Parsons required Claimant to account for minutes of his time

249. The Claimant's allegation that Ms Parsons asked him to account for every minute he had spent in meetings somewhat misrepresents the email exchange between them. The context was an email exchange about the Claimant's apparent failure to progress a task Ms Parsons had set for him during her period of leave.

250. Ms Parsons had set a task for the Claimant by email on 15 February 2022 and then had been away for a period of time. In that detailed and structured email of nearly two pages of close type she had set specific timings for the exercise to be completed by 22 February, a presentation to Michael/Matt in her absence on 23 February and then on her return on 28 February a brief to her.

251. Ms Parsons evidently could not see evidence of these things having happened upon her return.

252. Nevertheless, the exchange on 28 February started in a pleasant enough way from Ms Parsons asking:

“how are you and how was your week been in my absence last week?”

and perhaps a little more pointedly

“I don’t see any briefing session arranged in the diary for the task, w[h]ere you not planning to have one?”

253. The Claimant responded:

“Let me know a time that works for you and we can have one.”

254. Ms Parsons wrote back:

“Thank you Victor – as per my previous message I am interested to hear about your last week activity during my absence and to confirm any matters to discuss please.

I see the submission was on Tue 22nd, did you had to cancel for any reason the briefing with Matt and Michael (I don’t see this has happened)?

What are you working on today please?”

255. He replied rather curtly

“They were busy with interviews. I have nothing else to update. I worked on set tasks.”

He did not answer the question about what he was doing that day.

256. Ms Parsons evidently felt that Claimant was being less than forthcoming and responded at 12:28:

“I want to have a full update to include how many working hours you spent last week against activities for each working day including today. Please include any team meetings etc time spent.

Pls do so by COP today (1600hrs).

In addition please scroll down this email chain to address my queries in a professional and collaborative manner. If you prefer to discuss feel free to arrange a call.”

Ms Parsons’ complaint of 28 February 2022

257. Following on from that deteriorating email exchange, Ms Parsons had further communication with Janet Fletcher the case worker by telephone on the morning of 28 February 2022. Ms Fletcher followed up by email and later in the day Ms Parsons reply to her in a complaint about the Claimant in which she principally complained about his work rate and outcome and communication, but also (in **bold** below) about allegations of discrimination:

I'd like to add on this case the attached conversation as evidence please - I have concerns and am unable to justify this individual's working hours (the task I gave him was completed on Tue 22nd, no briefings arranged as planned. Victor was on leave on Friday 25th Feb. This leaves two days last week and today Mon 28th Feb, a total of 3 days. He consistently stays quiet avoiding any engagement. My intention was to establish whether something had come up during my absence last week or he is 'hands free' so I can allocate work to him. Clearly there is no collaboration, least to say but is also worrying the refusal to justify working hours.

At this point pls note

1. As a line manager, I feel I have the duty to ask my staff to justify their working hours which doesn't seem to be a shared view. I am concerned there may be a tendency of working hours justification avoidance (this is not the sole example).
2. **There is consistent blaming language and serious allegations of repeated discrimination which I classify as harassment from his part to myself** (reason for raising this HR case) in order for me to comply with his views and approaches causing a lot of distress.
3. Responses and in general communication is broken, non-collaborative and constant push back which makes extremely difficult to work with this individual.
4. Refusal of an individual task placed on him from his LM, including other team members inappropriately. Falsely accusing me for not managing work for other staff member i.e. Kate Stears (new joiner) - to note, Kate was given work tasks prior to my leave which she confirmed, engaged with my colleague as I directed her to do so last Monday and has turned around very quickly and to a high standard work outputs. She has been busy with an assignment preparation, additional tasks wrt training etc. and has provided briefing notes written and verbal (today).

5. As mentioned above I am unable to justify work outputs for his 37 hours per week. In the regarding activity plan (task), Victor was supposed to present his work last Wed 23rd to 2xcolleagues I set for him in order to gather their feedback, have an additional day to work on it, then review with myself upon my return (complete activity). His activity stopped on Tue 22nd, without arranging any briefings and resent the presentation to myself last Thur with an amendment. I am unable to justify 3 working days on this occasion, without the individual providing any information in regards. I am also missing several days from the previous tasking, training days he is not reporting, among other.

6. His behaviour is affecting work deliverables in many ways.

258. We iterate that Ms Parsons' unchallenged evidence was that she was surprised to find out in April 2022 that a complaint of bullying been put in in relation to Mrs Docherty. It seems from the content of the complaint above in bold that Ms Parsons believed that allegations of "discrimination" were being levelled at her personally. We note that the phrase "blaming language" in her complaint of 28 February 2022 is similar to that in her email of 4 February in which she responded directly to the Claimant's tone in emails complaining about of exclusion from training.

Complaint to Fiona Byrne (PA#5)

259. Following on from the Claimant's informal conversation with Ms Byrne on 16 February 2022, Ms Byrne formalised this complaint into an incident log on 28 February 2022. She recorded in writing a complaint against Mrs Docherty, Ms Parsons and Ms Bianco. Katie Steers was identified by the Claimant as a witness. In particular Ms Byrne recorded that the Claimant complained that Ms Parsons was excessively monitoring and micromanaging him and that he was being asked to account for every minute and every hour of work over the previous week. He claimed that he was being set up to fail.
260. He said that since he had attended the Directorate Awayday on 29 September 2020 by MS teams rather than in person, Mrs Docherty had told him that she viewed this as a "personal insult", and this had led to a bullying, harassment and discrimination. He urged that Mrs Docherty had told him 'nobody on the team likes you', 'none of the C1s like you', and 'nobody in the team wants to work with you' and that used racial stereotypes of laziness and dishonesty to initiate a negative performance review, and has been using Ms Parson, Ms Bianco and other B2s to bully and harass him under the guise of performance management.
261. He referred to the grievance and said that he wanted to extend this to other individuals involved. He expressly related his treatment to his race and sex, recorded in a box relating to protected characteristics.
262. This was a protected act under section 27 of the Equality Act 2010.

263. The written evidence of Ms Byrnes was that she kept the conversations she had with the Claimant private and confidential. She said she created anonymous incident reports to be submitted to the Director (Delivery), Rachel Baguley which would not identify the Claimant. Had there been more than one incident within a month this would be sent to the Commanding Officer/Director/DG responsible for the particular area. We did not hear oral evidence from Ms Byrnes and did not explore whether in this instance that would be Richard Smart who was Director of Transformation in the Transformation Directorate.
264. Ms Parsons told the investigator in the internal process that she had heard that Ms Byrnes had raised it with “her line manager who is not part of D&I or the HR process”. She said:
- “41. EP was asked, regarding VSI comments about SD, would he say them in front of other colleagues or were they just made to her. EP said he definitely said it to PC {Paul Cottingham} and she had heard from others that he is generally quite vocal about his allegations about SD. When asked EP said VSI spoke to the D&I (Diversity & Inclusion) officer, Fiona Burns (FB) **but then she heard that FB raised it with her line manager** who is not part of the D&I or the HR process. EP said each area will appoint a D&I officer so that people can go to them and raise issues and they have an obligation to engage HR if there is something specifically. EP said they went off the process and engaged a colleague who was not part of the process neither involved.
265. The Claimant put to Ms Parsons squarely that this showed that in her own words during the internal investigation, it seemed that Ms Byrnes had been talking about the Claimant’s allegations. Ms Parsons responded in the Tribunal hearing:
- “That’s not correct – Fiona Byrnes never engaged with me. We never had a conversation. What happened was that I started hearing from other colleagues about you complaining to people in the team to the D&I officer about my line mgmt. Other colleagues, not Fiona Byrnes, told me when I had to work with them that they hesitated because of what they heard you say about me as a line manager.
266. The Tribunal accepted that answer insofar as Ms Parsons was clear in her oral evidence and in the interview that she and Ms Byrnes did not speak directly. It seems likely however that Ms Byrnes had spoken to *someone’s* line manager (“her” is ambiguous) and somehow this had come to Ms Parsons attention.
267. It is ambiguous whether “her” in that note referred to Ms Byrnes or Ms Parsons or even Mrs Docherty who is referred to in the previous sentence.
268. The Tribunal doubts therefore whether Ms Byrnes did keep conversations private and confidential. Precisely to whom she spoke and when is unclear.

Ms Parsons' complaint

269. On 28 February 2022, Ms Parsons wrote an email to Janet Fletcher, an HR caseworker, further to their discussions on 14 and 15 February complaining about the Claimant as follows:

"I'd like to add on this case the attached conversation as evidence please - I have concerns and am unable to justify this individual's working hours (the task I gave him was completed on Tue 22nd, no briefings arranged as planned. Victor was on leave on Friday 25th Feb. This leaves two days last week and today Mon 28th Feb, a total of 3 days. He consistently stays quiet avoiding any engagement. My intention was to establish whether something had come up during my absence last week or he is 'hands free' so I can allocate work to him. Clearly there is no collaboration, least to say but is also worrying the refusal to justify working hours.

At this point pls note

1. As a line manager, I feel I have the duty to ask my staff to justify their working hours which doesn't seem to be a shared view. I am concerned there may be a tendency of working hours justification avoidance (this is not the sole example).
2. There is **consistent blaming language and serious allegations of repeated discrimination which I classify as harassment from his part to myself** (reason for raising this HR case) in order for me to comply with his views and approaches causing a lot of distress.
3. Responses and in general communication is broken, non-collaborative and constant push back which makes extremely difficult to work with this individual.
4. Refusal of an individual task placed on him from his LM, including other team members inappropriately. Falsely accusing me for not managing work for other staff member i.e. Kate Stears (new joiner) - to note, Kate was given work tasks prior to my leave which she confirmed, engaged with my colleague as I directed her to do so last Monday and has turned around very quickly and to a high standard work outputs. She has been busy with an assignment preparation, additional tasks wrt training etc. and has provided briefing notes written and verbal (today).
5. As mentioned above I am unable to justify work outputs for his 37 hours per week. In the regarding activity plan (task), Victor was supposed to present his work last Wed 23rd to 2xcolleagues I set for him in order to gather their feedback, have an additional day to work on it, then review with myself upon my return (complete activity). His activity stopped on Tue 22nd, without arranging any briefings and resent the presentation to myself last Thur with an amendment. I am unable to justify 3 working days on this

occasion, without the individual providing any information in regards. I am also missing several days from the previous tasking, training days he is not reporting, among other.

6. His behaviour is affecting work deliverables in many ways”

Mrs Docherty interviews

- 270. Mrs Docherty was interviewed on 20 February 2022 as a complainant and then later on 4 May 2022 as a witness.
- 271. She was interviewed on 12 May as a respondent. She was subsequently interviewed by an external investigator on 14 July 2022 and further interviewed on 26 October 2022.
- 272. Ms Parsons’ perspective was that although the Claimant sent an email to the whole team asking for some ideas the Claimant did not engage with her by contrast with her other direct report who would engage with her and keep her updated on what she was doing.

Claimant seeks to record meeting 1 March 2022

- 273. On 1 March 2022, Ms Parsons had a scheduled virtual meeting with the Claimant for him to discuss work on a task that had been assigned to him.
- 274. At the beginning of the meeting she noticed a system message saying the meeting was being recorded. She asked the Claimant whether he was recording the meeting and he replied saying that he had decided to record this and every call.
- 275. Ms Parsons responded saying that that he needed to seek permission first to record any personal data but he replied “I’m going to record the call anyway, otherwise I won’t have any calls”.
- 276. Ms Parsons said “it is not a one-way decision to impose on others, I am not comfortable with this attitude and therefore I don’t give my permission”.
- 277. The Claimant said that that was what he decided, and if Ms Parson did not agree then he would not have any meetings at all. She insisted that it was a breach of policy and stated that she did not consent under the circumstances, therefore they had to end the call.
- 278. We accept that Ms Parsons found this extremely disturbing and was reduced to tears. She emailed Ms Fletcher, the DBS caseworker, to explain what had happened and that there had been a data breach. She wrote:

“This was very upsetting to having been caught by surprise by a colleague, and attempted to be forced to a certain practise without my consent.

The work relationship is very much damaged and non collaborative.

The result also impacts work deliverables, with no concluding session, and yet quite a few queries regarding this work. I shall request for this to be provided via an email.

At this point, it is proving extremely difficult to assign any further work to this individual, given that I cannot justify his working hours, I seek immediate advise on how to continue going forward e.g. can this person be re-assigned in order to keep working as he is getting paid? Currently he acts solo i.e disconnected and non-engaging.”

Email follow up – 3 March 2022

279. Following on from the abortive meeting, Ms Parsons provided some feedback to the Claimant by email on 3 March. In that email she asked him to refrain from involving members of the wider team although said that he could engage with senior manager Lydia Manns (whom we note was a former line manager of the Claimant).
280. The feedback on the Claimant’s work (which appears to be a 38 page PowerPoint presentation) she gave was “a good attempt however:” She then provided some detailed technical feedback on the work with some suggested changes in seven bullet points. The feedback was a combination of stylistic points such as formatting and the way that things have been presented and other points which are about to what extent the content is in or out of scope the exercise and drawing out conclusions.
281. The reality is that these points would have been better as discussion points for a meeting to help improve the finished product. In an email these points came across to the Claimant as a long list of criticisms.
282. She concluded:
- “As a conclusion, the mapping is not sufficient enough to inform the purposes of this exercise but also it regards a very light touch implying a reduced effort invested into it.
- I’d be happy to expand further any points and or any questions to address in regards.”
283. The Claimant responded that evening at 20:38, copying in Strategy Hub Delivery Director Rachel Baguley and Andrea Eagle asserting that he was being bullied and that he welcomed escalation to more senior people. He wrote:
- I am aware that this is part of a systemic mobbing exercise that I have been subjected to the last few months and I have every intention of pursuing this matter further as I am perpetually and ritually subjected to changing goal posts.

...

I must push back as I am being perpetually set up to fail and this is in and of itself an act of bullying intended to humiliate and denigrate employees and break their self esteem while setting unrealistic tasks to unrealistic times lines and then inventing metrics after the fact . This is to be followed by the fact that I have an active grievance against the B1 on the team [i.e. Mrs Docherty] and these criticisms are intended to build a narrative of incompetence to justify "Managing me out".

...

A lot of these criticism as with almost every task I have been set the past two months involves changing goalposts which means no matter what I do, It gets criticised and then marked as " Unusable" and then subjective and implicit rules and policies are then applied to trash the work

[addition added]

Conduct letter

284. In a letter sent to the Claimant by Helen Holder dated simply "March 2022" he was asked to answer the following charges of misconduct:

"I am writing to tell you that I am considering an allegation that you have fallen below expected standards of conduct. This includes:

- Inappropriate behaviour including allegations of harassment and intimidation with the aim to gain approval for training
- Failure to follow reasonable instructions from Line Management in providing information relating to work
- Breach of organisational Rules pertaining to virtual meetings and personal data (JSP 440, JSP 441)
- Language and disrespect

Incidents where this behaviour is alleged to have taken place fall between the period from September 2021 to present date.

In order to establish the facts Mrs Shelley Grattidge has been appointed to investigate the matter."

Interview

285. The Claimant was interviewed by Daniel Applegate as part of his investigation into the Claimant's complaint on 9 March 2022, with a further interview on 23 March 2022.

Promotion

286. The Claimant was promoted to Grade B2 with effect from approximately the end of March 2022.

Grattidge conduct investigation

287. Shelley Grattidge was tasked with an investigation of a misconduct matter following on from the Claimant's line manager Ms Parson's complaint about him.
288. The allegations were that the Claimant had i. Used inappropriate behaviour, including allegations of harassment and intimidation, with the aim to gain approval for training; ii. Failed to follow reasonable instructions from Line Management in providing information relating to work; iii. Breached organisational Rules pertaining to virtual meetings and personal data (JSP 440, JSP 441); iv. Used disrespectful language and disrespect
289. On 10 June 2022 Ms Grattidge interviewed the Claimant in the presence of a notetaker and a representative present with the Claimant.
290. The Claimant frequently responded to her questions with a form of words
- "I have no comment on that at the present time, but I reserve the right to give a qualified response at a later date"
291. The Claimant said that he had no comment or no response in the region of 28 times. That lack of cooperation is somewhat surprising. This was not a criminal investigation but an investigation by the Claimant's employer. The Claimant himself was making a complaint and would have a reasonable expectation that colleagues would participate in the investigation of that complaint.
292. Ms Grattidge produced a nine page report dated 3 July 2022. In that report she concluded that there was a case to answer:
- "I believe that there is sufficient evidence to support Inappropriate behaviour including harassment and attempt to intimidation with the aim to gain approval for training (among other examples) and Inappropriate language and disrespect"

JSP 440 and 441

293. The Claimant asserts that in her conclusion Ms Grattidge made reference to non-existent policies, which have been erroneously captured in the list of issues as JSB 440 and 441.

294. This appears to a reference to JSP (Joint Services Publications) 440 and 441.
295. The bundle contained an extract of JSP 441 at page 4749:

“Copied from JSP 441 as sent to the claimant in his meeting notes.
The actual link will not be viewable outside of MOD

Recording and captioning

- **Internal or MOD-hosted meetings must not be recorded by default, and must not be recorded at all on non-MOD-issued (personal) devices.** If there is a legitimate requirement to activate recording functionality, for example where the topic is covered by a Preservation Order, **seek permission to record the meeting from other attendees**, or (where recording for legitimate purposes is non-negotiable) notify all attending as far in advance as possible that the meeting will be recorded. Respect any requests to pause recording during the meeting, if the system has pause capability.

- If key stakeholders decline the meeting request because they do not wish to be recorded, consider using conventional note-taking methods instead.”

296. On the balance of probabilities we found that that policies JSP 441 did exist. We have not been referred to JSP 440, which Ms Grattidge stated in her report that she found but the relevant part of the policy was still under development.

Outcome to Claimant's & Mrs Docherty's complaints

297. The investigation into the Claimant and Mrs Docherty's grievances about each other concluded in November 2022, with a report produced by Nigel Smith the investigating officer on 17 November 2022. He picked up this case after an earlier investigating officer had withdrawn due to ill health.
298. The decision manager Daniel Applegate did not uphold either of the complaints, neither the Claimant's nor Mrs Docherty. He communicated this in both cases by letter on 23 December 2022.
299. In relation to the Claimant's complaint of BHD (in the shorthand Bullying Harassment Discrimination) he found that the actions complained of were “fair and proportionate management in response to issues of quality of work, behaviour in the workplace and availability for work”.
300. In relation to the Mrs Docherty's complaint of BHD (shorthand Bullying Harassment Discrimination although it strictly speaking was not alleged discrimination) on the part of the Claimant he found that the actions complained of may have caused distress on the part of Mrs Docherty, the Claimant was sending a message on a private basis to Mr Branch only, it was not copied to anyone else and he was seeking emotional and psychological support from someone he considered to be a mentor.

Claimant & Mrs Docherty's appeals

301. Both the Claimant and Sharon Doherty appealed Mr Applegate's grievance outcomes in January 2023.
302. There was an appeal hearing on 23 March 2023.
303. On 19 April 2023 the Appeal manager, Martyn Williams, upheld the Appeal for Mrs Doherty, but did not uphold the Claimant's Appeal.
304. Mr Williams upheld Mrs Docherty's appeal on the basis that Daniel Applegate had only responded to one of her points of complaint and also it did not fully consider all of the evidence for all aspects of her complaint.
305. He found that Mr Applegate had not given due weight to the investigation and witness testimonies which appeared compelling. He dismissed the complaint about the LinkedIn message, but in relation to other matters concluded in a nuanced and careful conclusion:

"There are many areas in the evidence where VSI [i.e. the Claimant] challenges other people (including referencing yourself) extensively on their approaches, direction and views, or defends his own position, approaches and views. Whilst sometimes valid and often extremely detailed, sometimes quite confrontational, or rejecting what the majority of people would understand and accept as normal or reasonable business practice, they present quite challenging circumstances to line manage staff in, and many are not in themselves individually bullying or harassment. There are also some recognitions where he has been respectful, professionally articulate in his approaches and reasonably considered.

However there is also a sufficient set of evidence from interviewing witnesses where the cumulative effect of VSI's actions meets the MOD definition of bullying and harassment against you"

306. He carried on later:

"The witness evidence suggests repeated inappropriate behaviour, sometimes aggressive, confrontational, demeaning and VSI acting actively against you, creating a negative culture of accusation. There is significant pattern of inappropriate challenge towards you and multiple managers, with defamatory approaches leaving you and various staff feeling intimidated or uncomfortable working with VSI's aggressive, threatening, rude, and disparaging responses characterised with excessive and severe rejection of reasonable line management and business requests seeking to manage tasks, him and understand his situation.

Whilst perhaps borne from his disagreements, differences of opinion beyond acceptable levels of professional challenge and frustrations, he did not apparently listen or respond well, nor seek to understand and find a way forward collaboratively, nor raise any valid concerns professionally or confidentially as required. Noting his own circumstances, mental health and where he was underperforming VSI did not appear to recognise what was expected of him as appropriate and reasonable standards for delivery or tasking by multiple line managers, in line with normal MOD business and published policy or guidance he should have been able to find and understand. You and various other line managers genuinely and constructively sought to help him, in line with policy and with DBS advice, on this which he rejected and responded badly too, with a sense of unjustness, disproportionate expectation, and unreasonableness.

This unwanted and inappropriate conduct created a hostile, degrading, and offensive environment, whilst the extent of the behaviour was beyond reasonable so as to be more than just uncomfortable and disrespectful, but intimidating and causing you (and others) significant upset, and inability to continue working together, with a detrimental effect on you causing you to withdraw, seeking welfare and medical support yourself. This meets the threshold of bullying and harassment as defined above.

307. Further:

“I have decided that misconduct and disciplinary action should be instigated against Victor Stanley-Idum. A new Decision Maker will now be appointed to take this procedure forward and determine what actions and penalty is appropriate with his line management chain”

308. The appeal outcomes were communicated in April 2023, and as a result of the decision, a misconduct case was raised in regard to the Claimant.

309. Mr Williams accepted that the original complaint process was unduly long, caused in part by a change of investigator and witness unavailability. He did not accept that the Claimant's dignity had been violated. He acknowledged that there had been unintentional frictions within the workplace which suggested that the Claimant had a lack of empathy with those who are actually trying to help him.

Master's degree

310. The Claimant says that he dropped out of a master's degree course that he was studying at Birkbeck college, which he had originally started in 2016, then “paused” then started again in 2019 with the intention of completing by summer 2021 before abandoning the course.

311. The Claimant in his oral evidence was adamant that he worked on his master's only in the evenings and that this did not clash with work. Given the

Respondent's witnesses' observations about the Claimant sending emails in the evening, being unavailable for periods during the day and repeatedly producing less work than they would have expected given the time he had spent on a task, an inference that might reasonably be drawn is that the Claimant was struggling to appropriately demarcate between his employment responsibilities and his studies.

Sick absence

312. The Claimant was on sickness absence in July and August 2023.

Comparators

313. Comparators 11 and 12 were black and it is difficult to see how they were useful comparators in relation to the claim of race discrimination.
314. The Claimant made various concessions in relation to comparators during his oral evidence. As to comparators 1, 2, 11, 12 he accepted that they had all received good feedback and were different position in relation to performance.
315. We accepted Mrs Docherty's evidence that comparators 1, 11, 12, 13 did not have performance difficulties. Accordingly they were not in the same circumstances him.
316. Comparator 6, Comparator 7, and Comparator 8 were in a different team to the Claimant.
317. Similarly comparator 2 had received good feedback – the Claimant accepted that this is a different situation.
318. We did not identify that any of the comparators were in the same circumstances as the Claimant. There were material differences between their circumstances. We have had to focus on the circumstances of hypothetical comparator to evaluate the complaints of race discrimination.

The claim

319. The ACAS early conciliation took place between 1 June 2023 and 16 June 2023, and the ACAS conciliation certificates with each of the Respondents were issued on 16 June 2023.
320. The Claimant filed his claim with the London Central Employment Tribunal on 18 July 2023 and provided further details of his claim in October 2023 which were accepted by way of amendment at a Preliminary Hearing in January 2024.

The Law

Legislation

321. The Equality Act 2010 contains the following provisions:

27 Victimisation

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

(a) B does a protected act, or

(b) A believes that B has done, or may do, a protected act.

(2) Each of the following is a protected act— ...

(d) making an allegation (whether or not express) that A or another person has contravened this Act.

136 Burden of proof

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

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

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

Protected acts

- 322. Context is important, including the level of articulacy and ability to phrase allegations in a legally clear and express manner: **Chalmers v Airpoint Ltd** EAT 0031/19.
- 323. Qualifications within a statement are relevant to interpretation as to whether an allegation is or is not being made: **Chalmers** (“may” in that case indicated sufficient uncertainty).
- 324. The Tribunal has had reference to the decision of Langstaff P in **Durrani v London Borough of Ealing** UKEAT/0454/2012 and HHJ McMullen QC in **Fullah v Medical Research Council** UKEAT 0586/2012.
- 325. To fall within section 27 a protected act does not necessary require an employee to go as far stating in terms that there is contravention of the Equality Act, nor expressly that discrimination relating to a protected act has occurred. If not express it would need to be implied. Nevertheless a person on the receiving end of a complaint of victimisation ought to be able to identify what protected characteristic it is in respect of (**Fullah**).

Causation

326. Something is done ‘because’ of a protected act for the purposes of s.27 if the protected act was a “significant influence” on the employer’s decision-making: **Nagarajan v London Regional Transport** 1999 ICR 877, HL.
327. ‘Significant’ will be an influence that is more than trivial: **Igen Ltd (formerly Leeds Careers Guidance) and ors v Wong and other cases** [2005] ICR 931, CA 2005 ICR 931, CA.

Burden of proof

328. We have considered **Nagarajan v London Regional Transport** [1999] IRLR 572, **Madarassy v Nomura International plc** [2007] IRLR 246 CA, **Ayodele v Citylink Ltd** [2017] EWCA Civ 1913. In **Hewage v Grampian Health Board** [2012] ICR 1054, SC in which Lord Hope endorsed the following guidance given by Underhill P in **Martin v Devonshires Solicitors** 2011 ICR 352, EAT:

“the burden of proof provisions in discrimination cases... are important in circumstances where there is room for doubt as to the facts necessary to establish discrimination — generally, that is, facts about the respondent’s motivation... they have no bearing where the tribunal is in a position to make positive findings on the evidence one way or the other, and still less where there is no real dispute about the respondent’s motivation and what is in issue is its correct characterisation in law’.

329. In **Madarassy** CA Lord Justice Mummery held as follows:

“The court in *Igen v. Wong* expressly rejected the argument that it was sufficient for the complainant simply to prove facts from which the tribunal could conclude that the respondent “could have” committed an unlawful act of discrimination. The bare facts of a difference in status and a difference in treatment only indicate a possibility of discrimination. They are not, without more, sufficient material from which a tribunal “could conclude” that, on the balance of probabilities, the respondent had committed an unlawful act of discrimination.” (para 56)

Time/unfair dismissal complaints

330. In relation to time in cases of unfair dismissal section 111(2) of the Employment Rights Act 1996 (“ERA”) provides:

“an employment tribunal shall not consider a complaint under this section unless it is presented to the tribunal –

(a) before the end of the period of three months beginning with the effective date of termination, or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was **not reasonably**

practicable for the complaint to be presented before the end of that period of three months.”

[emphasis added]

Time limits/EqA complaints

331. In **Robertson v Bexley Community Centre t/a Leisure Link** 2003 IRLR 434, the Court of Appeal held that when employment tribunals consider exercising the discretion under [what is now] S.123(1)(b) EqA, ‘there is no presumption that they should do so unless they can justify failure to exercise the discretion. Quite the reverse, a tribunal cannot hear a complaint unless the applicant convinces it that it is just and equitable to extend time, so the exercise of the discretion is the exception rather than the rule.’
332. In **Abertawe Bro Morgannwg University Local Health Board v Morgan** 2018 ICR 1194, CA, the Court of Appeal pointed to the fact that it was plain from the language used in S.123 EqA (‘such other period as the employment tribunal thinks just and equitable’) that Parliament chose to give employment tribunals the widest possible discretion and it would be wrong to put a gloss on the words of the provision. At paragraph 1¹⁹ Leggatt LJ said:
- “it is plain from the language used (such other period as the employment tribunal thinks just and equitable) that Parliament has chosen to give the employment tribunal the widest possible discretion. Unlike s 33 of the Limitation Act 1980, s 123(1) of the Equality Act does not specify any list of factors to which the tribunal is instructed to have regard, and it would be wrong in these circumstances to put a gloss on the words of the provision or to interpret it as if it contains such a list. Thus, although it has been suggested that it may be useful for a tribunal in exercising its discretion to consider the list of factors specified in s 33(3) of the Limitation Act 1980 (see *British Coal Corporation v Keeble* [1997] IRLR 336), the Court of Appeal has It is submitted made it clear that the tribunal is not required to go through such a list, the only requirement being that it does not leave a significant factor out of account: see [2003] EWCA Civ 15, [2003] IRLR 220, para [33]. The position is analogous to that where a court or tribunal is exercising the similarly worded discretion to extend the time for bringing proceedings under s 7(5) of the Human Rights Act 1998: see *Dunn v Parole Board* [2008] EWCA Civ 374, [2009] 1 WLR 728, paras [30] [32], [43], [48]; and *Rabone v Pennine Care NHS Trust* [2012] UKSC 2, [2012] 2 All ER 381, para [75].
333. That said, factors which are almost always relevant to consider when exercising any discretion whether to extend time are: (a) the length of, and reasons for, the delay and (b) whether the delay has prejudiced the respondent (for example, by preventing or inhibiting it from investigating the claim while matters were fresh).”

334. In **Adedeji v University Hospitals Birmingham NHS Foundation Trust** [2021] EWCA Civ 23, [2021] ICR D5, Underhill LJ said:

"The best approach for a tribunal in considering the exercise of the discretion under section 123(1)(b) is to assess all the factors in the particular case which it considers relevant to whether it is just and equitable to extend time, including in particular (as Holland J notes) the length of, and the reasons for, the delay. If it checks those factors against the list in Keeble, well and good; but I would not recommend taking it as the framework for its thinking."

CONCLUSIONS

Time limits

ERA claims

Time limits

1.2 Were the claims under section 44 and section 47C of the Employment Rights Act 1996 brought in time?

1.2.1 Was the claim made to the Tribunal within three months (plus early conciliation extension if applicable) of the act complained of?

1.2.2 If not, was it reasonably practicable for the claim to be made to the Tribunal within the time limit?

1.2.3 If it was not reasonably practicable for the claim to be made to the Tribunal within the time limit, was it made within a reasonable period?

335. Both the claim brought under section 44 (health and safety detriment) and section 47C (detriment because of domestic/family leave) relate to events in October 2021.
336. The Claimant has failed to show that it was not reasonably practicable between October 2021 and presentation of the claim on **18 July 2023** to present a claim. He was able to participate in an internal grievance and grievance appeal process during this period, which shows that he was able to engage with these matters. Pursuing an internal process is not however a reason why it is not reasonably practicable to present a claim.
337. The Tribunal has borne in mind that the Claimant brought a claim against a previous employer in the Employment Tribunal and that he has some legal training albeit very historic by 2021.
338. We do not find that he was unaware of the fact that time limits applied nor of his right to bring a claim in the Employment Tribunal. The time limit is 3 months. It follows that the Claimant has brought the two detriment claims under the Employment Rights Act 1996 nearly 18 months late.

339. Both detriment claims are out of time and the Claimant does not get the benefit of any extension.
340. **These complaints are dismissed.**

EqA claims

Time limits

1.3 Were the discrimination and victimisation complaints made within the time limit in section 123 of the Equality Act 2010? The Tribunal will decide:

1.3.1 Was the claim made to the Tribunal within three months (plus early conciliation extension where applicable) of the act to which the complaint relates?

1.3.2 If not, was there conduct extending over a period?

1.3.3 If so, was the claim made to the Tribunal within three months (plus early conciliation extension where applicable) of the end of that period?

1.3.4 If not, were the claims made within a further period that the Tribunal thinks is just and equitable? The Tribunal will decide:

1.3.4.1 Why were the complaints not made to the Tribunal in time?

1.3.4.2 In any event, is it just and equitable in all the circumstances to extend time?

341. With the exception of the victimisation complaint **5.2.11** dated 19 April 2023 all of the other complaints brought under the Equality Act 2010 are brought out of time.
342. We considered each of these Equality Act complaints on the substantive merits to assess whether there was a continuing act.
343. We have not found a continuing act of discriminatory state of affairs, nor has the Claimant satisfied us that it would have been just and equitable to extend time. This is not a case where the Claimant had only just become of the factual basis of the complaints or his rights in July 2023. Allegations about events in October and December 2021 in particular were stale as of July 2023. The practical reality is that Respondent witnesses were giving evidence in January 2025 over three years after these events. Inevitably that affects witnesses' ability to recall events. It should be said in favour of the Claimant that this is a fairly well documented case.
344. Had these been meritorious complaints brought late we find that this would have been a factor that would have significantly weighed in favour of extending

time. We have considered the complaints on their substantive merits and not found them to be meritorious for the reasons given below.

- 345. It follows that all complaints brought under the Equality Act 2010 save for victimisation allegation 5.2.11 are out of time and we have not extended time.
- 346. **Each complaint brought under the Equality Act other than victimisation allegation 5.2.11 is dismissed.**
- 347. **Victimisation allegation 5.2.11 we have dealt with on the substantive merits.**
- 348. In case we are wrong in the exercise of our discretion in relation to time, we have dealt with each of these complaints on their substantive merits.

(2) Associative disability discrimination

2.1 Was the Claimant's relative disabled by reason of cancer between 2020 – 2022?

- 349. The Claimant's relative and the nature of their relationship one to another has been anonymised at his request for reasons given orally during the hearing.
- 350. In a document dated 7 December 2021 the Claimant referred to his family's health history being a basis for his concern about Covid-19.
- 351. On 9 March 2022 the Claimant made reference to a particular relative undergoing a type of treatment which would tend to indicate that they had a disability.
- 352. On balance, the Tribunal accepts that the Claimant had a relative with a disability.

2.2 If so, did the Respondent have actual or constructive knowledge that the Claimant's relative was so disabled?

- 353. The Respondent's case is that Mrs Docherty was unaware of Claimant's relative being ill. Mrs Docherty says that she was not aware of this disability until she read documents in the bundle of documents prepared for the Tribunal hearing. The burden is on the Claimant to establish knowledge.
- 354. We are not satisfied that there is any evidence to rebut Mrs Docherty's accounts that she was unaware of the Claimant's relative's disability at time material to the complaint of associative disability discrimination.

2.3 Did the Respondent issue the Claimant with a disciplinary warning on 27 October 2021?

- 355. We reiterate that the email of 27 October 2021 was on its face described as "informal action" and it was explained within the email that it would not be placed on his HR file. In other words it was at the lowest end of the scale if it was properly to be characterised as a disciplinary warning.

2.4 If so, was that less favourable treatment?

356. This was capable of being a detriment.

2.5 If so was that because of the Claimant's relative's disability?

357. Given Mrs Docherty's lack of knowledge of the Claimant's relative's disability, this allegation cannot succeed.

358. We do not find that the Claimant's relative's disability was a cause of this "informal action".

359. **Had this allegation not been dismissed as being out of time we would have dismissed it on the substantive merits.**

3. Direct race discrimination (Equality Act 2010 section 13)

Race

3.1 The Claimant's race is Black African.

3.2 Did the respondents do the following things:

Misconduct warning 27 October 2021

3.2.1 On 27 October 2021, Sharon Docherty issued the Claimant with a misconduct warning for (i) remote attendance at an away day at Sandhurst on 29 September 2021 (ii) remote attendance at an away day in Main Building (iii) taking time off on 12 October 2021 (iv) attending the Teams meeting 2 minutes late.

The Claimant's comparators in relation to this allegation are: Cassie Bianco, Michael Budd, Mark Darlington, Paul Cottingham, Michael Schwab Beaugrand, Matthew Lawrence, Eleni Parsons and Sharon Docherty

Treatment

360. We reiterate that this was "informal action" in an email which Sharon Docherty did not place on the HR Claimant's file. The way that this allegation has been framed is misleading and incomplete. We take each point in turn.

361. Points (i) and (ii), the concern about the away days was not that he attended remotely, but rather that the Claimant left it to the last minute and did not inform line management that he was not planning to attend.

362. Point (iii) the concern about 12 October was not that the Claimant had taken the time off, but that he was taking time off work without marking this in his calendar or recording annual leave. 12 October was merely one example of this.

363. Point (iv) appears to be groundless, since the Claimant was unable during the course of the Tribunal hearing to identify where he had been subject to a

warning for being two minutes late. Conceivably the Claimant had in mind an occasion when he was 15 minutes late on 5 October 2021 for a meeting with Richard Smart. To suggest this was merely two minutes late materially misrepresented the concern.

364. Finally, this list of four items does not represent the totality of the concerns that were being raised with the Claimant which have been quoted in full above in our written reasons. There were a series of other concerns.
365. We do not find that the Claimant has characterised this written communication accurately or completely.

Was race reason for treatment?

366. None of the other comparators had anything similar to the catalogue of concerns that were held by Mrs Docherty about the Claimant. Accordingly we are assessing this on the basis of a hypothetical comparator, i.e. someone who was not of Black African heritage who had done what the Claimant had done.
367. The Tribunal did not conclude that the Claimant's race formed any part of the reason for this misconduct warning, for the following reasons.
368. First are a couple of considerations which apply to this allegation but are of general application and apply the other allegations of race discrimination below.
369. Sharon Docherty was part of a panel of two who made the original decision to recruit the Claimant into this role. While that does not at all preclude the possibility of her subsequently discriminating against the Claimant because of his race it does make it somewhat unlikely that she had a preconceived negative attitude towards the Claimant because of his race at the outset of him working in her team. When the Claimant complained to Fiona Byrne he suggested that things started to go wrong after he had not attended the awayday on 29 September 2021 which he felt that Mrs Docherty had taken as a personal insult.
370. In the internal grievance process the Claimant contended that Mrs Docherty was invoking a racial stereotype of laziness and dishonesty in relation to the Claimant. We have not formed the impression based on all the evidence in this case that Mrs Docherty held a stereotypical view of Black Africans being lazy or dishonest nor indeed that that was a widely held stereotype.
371. The evidence suggests that over the course of her career Mrs Docherty has not shied away from managing cases of poor performance of people of different ethnicities, including those not sharing the Claimant's race. We accept her characterisation of her management style as firm but fair. We would make the observation that although she describes this management as "firm" sending an email without placing this on file at all is at the mild end of the spectrum. She describes taking more serious sanctions up to dismissal in other cases.
372. This was not a case in which Mrs Docherty said or did anything which was overtly racist or suggested a motivation relating to the Claimant's race.

373. We have considered carefully whether there are facts in this case from which we could infer that the Claimant's race was a reason for Mrs Docherty's actions. We have considered the point about stereotypes advanced by the Claimant in the internal grievance but have not come to the conclusion that this was at play in this case.
374. There is clear documentary evidence of concerns about the Claimant's performance which start management by Mr Mann in 2021 onward. There is feedback from internal clients (i.e. those out of the reporting line), not simply managers. Against that background the "informal action" email is unsurprising and does not call for any explanation. A manager in that circumstance we feel might have justifiably taken more robust action.
375. We do not find race was a factor.
376. **Had this allegation been in time or time extended we would have dismissed it on the substantive merits.**

Alleged excessive monitoring

377. The allegation is:

3.2.2 From 21 October 2021 for a period of 12 months, Sharon Docherty subjected C to excessive monitoring including check in and check out routines and sanctioning C for attending a team meeting 2 minutes late. The Claimant relies on a hypothetical comparator in respect of this allegation.

Treatment

378. The Claimant was, by the email of 27 October 2021 (not 21 October) provided with check-in and check-out routines, specifically a check-in at 09:00, lunch to be taken 12:00 – 13:00 and daily checkout at 17:00.
379. As is set out above the Claimant was unable during the course of the Tribunal hearing to identify where he had been subject to a warning for being two minutes late. Conceivably the Claimant had in mind an occasion when he was 15 minutes late on 5 October 2021 for a meeting with Richard Smart.
380. The Tribunal acknowledges that the Claimant did feel subjectively that this approach was excessive.

Was race reason for treatment?

381. The background in October 2021 was the unusual situation in which colleagues were working remotely from each other because of Covid-19 lockdowns and home working, and the usual office interaction and management supervision was almost entirely absent in the case of the Claimant and the department he was working in.
382. We find that the reason for the approach taken by Mrs Docherty was entirely that she had become concerned that the Claimant's performance in his role

and that working day had become unstructured. He was working remotely, as indeed were most of his colleagues. There were a series of concerns raised about his output and it was difficult to monitor what the Claimant was working on. There is evidence that was taking time during the working day to do things that were unrelated to work and yet seemed unwilling to take annual leave.

383. The Claimant was sending emails very late in the day outside of normal working hours. To this extent the structure which provided a checkout at 17:00 was attempting to support work life balance for the Claimant.
384. Fundamentally however he was not performing in the sense that his managers felt that the work he produced was not commensurate with the number of working days he had been given. We find that Mrs Docherty genuinely believed this and was trying to implement a structure that would provide a remedy for this. We find this was unrelated to the Claimant's race and this was the underlying reason for Mrs Docherty's treatment of him.
385. **Had this allegation been in time or time extended we would have dismissed it on the substantive merits.**

Performance Management 10 December 2021

386. The allegation is

3.2.3 On 10 December 2021, Sharon Docherty initiated performance management proceedings outside MOD performance management processes.

The Claimant relies on Michael Schwab Beaugrand as a comparator in respect of this allegation.

Treatment

387. On 10 December 2021 was no initiation of a performance process. What occurred on that day was an email from Mrs Docherty to the Claimant which documented some performance concerns and next steps in bullet point.
388. It may be that "outside MOD performance management processes" is an allusion to something raised by the Claimant during the tribunal hearing, which is that he believed that on 7 December 2021 Mrs Docherty was trying to commence a formal performance management discussion "out of process" (in particular because he had not received written notification and had no trade union representative present). To the extent that is the allegation he is bringing we find that he was mistaken, and that Mrs Docherty had never intended this to be a formal performance management step for the reasons given above.
389. We do not find that the factual basis for this allegation is made out.

Was race reason for treatment?

390. We did not find that the Claimant's race was a factor in the approach taken by Mrs Docherty on 7 and 10 December 2021. There is ample evidence that for

some time there have been some performance concerns raised. Mrs Docherty was focussed on those concerns and continued the approach from October of dealing with these informally rather than escalating to a formal performance approach.

391. This was unwelcome viewed from the Claimant's perspective, but we do not find it was due to his race.
392. **Had this allegation been in time or time extended we would have dismissed it on the substantive merits.**

Accounting for working time (Eleni Parsons)

393. The allegation is :

3.2.4 On 28 February 2022, Eleni Parsons subjected C to checks including asking him to count how many minutes he had spent in meetings and the times he had joined meetings.

The Claimant relies upon Kate Steers as a comparator in respect of this allegation.

394. This mischaracterises what happened. Ms Parsons was initially asking, appropriately about what the Claimant had been doing in her absence. Before she went away the Claimant had been tasked with certain matters including arranging meetings with Ms Parsons and others in an email dated 15 February. It was clear to Ms Parsons upon her return that the Claimant had not done this. She asked him appropriately what he had been working and about these meetings.
395. It was Claimant's curt and dismissive responses that led to Ms Parsons pushing for more detail, not we find the Claimant's race. Had the Claimant set up the meetings as requested or had he provided more than the curt responses to Ms Parsons' reasonable enquiries upon her return, the escalation in the email exchange would not have occurred. In our view the Claimant ought to have acknowledged that he had not done what he been asked and ought to have made clear to Ms Parsons what he was doing to get matters back on track. Instead his email response was uncooperative.
396. There is no evidence that Kate Steers was in the same situation as the Claimant. The evidence of Ms Parsons is that Ms Steers provided almost daily updates such that Ms Parsons was very clear what she was working on.
397. We have not concluded that a non-Black hypothetical comparator in the same situation as the Claimant would have been treated any differently. We do not find that the race for the treatment complained of was race.
398. **Had this allegation been in time or time extended we would have dismissed it on the substantive merits.**

4. Harassment related to race (Equality Act 2010 section 26)

Disciplinary proceedings

399. The allegation of harassment is:

4.1 Did the respondent commence disciplinary proceedings against the Claimant on 18 July 2022?

400. In an investigation report 3 July 2022, Ms Grattidge concluded that the Claimant there was sufficient evidence of inappropriate behaviour including harassment on the Claimant's part to amount to a case to answer. That was not a disciplinary action but a conclusion that a disciplinary sanction might be appropriate to be decided by someone else.

401. This was unwanted conduct. We do not find that this related to race.

402. In case we are wrong about that, as to whether this might reasonably be seen as being harassment, broadly speaking that was one of two potential conclusions that an investigator in Ms Grattidge's position could come to. She evaluated the evidence. There was some evidence that supported her conclusion. We cannot see how this would reasonably amount to harassment, even if the Claimant disagreed with it.

403. **Had this complaint been in time or time extended we would have dismissed it on the substantive merits.**

5. Victimisation (Equality Act 2010 section 27)

PROTECTED ACTS

PA#1: grievance - January 2022

5.1.1 Raise a formal grievance on 4 January 2022;

404. It is admitted that the Claimant did raise a formal grievance on 12 January 2022 and that this was a protected act although counsel submits that the lack of factual content given at this case made it marginal. That grievance needs to be read together with the letter dated 29 December 2021 submitted in early January.

405. Some of the substance of the allegation of the discrimination did not come until the Claimant met Daniel Applegate on 9 March 2022.

PA#2: Andrea Eagle - 20.1.22

5.1.2 Complain to Andrea Eagle on 20 January 2022 about discrimination;

406. There is a dispute between the parties about whether discrimination was raised during this conversation. We note that in the Claimant's email to Ms Eagle

dated 28 February 2022 he referred to the conduct as “bullying and harassment”, with no reference to discrimination.

407. In any event however nothing turns on the dispute about whether this was described as discrimination since the Claimant concedes that his conversation with Ms Eagle was treated by her as completely confidential, i.e. it was not shared by her with anyone and cannot therefore have been the cause of detrimental treatment such as to form victimisation under section 27.

PA#3: Eleni Parsons - 21.1.22

5.1.3 Complain to Eleni Parsons in a meeting on 21 January 2022 about bullying and racial discrimination;

408. The Respondent admits that there was a reference to race discrimination in a meeting on 21 January 2022. The Respondent contends however that this was purely about the question of security vetting, referencing the Claimant’s dual nationality. Since that was a criticism of a policy and a department that the Claimant was not working in, and was not any criticism of his immediate management team or colleagues we cannot see how that comment would have led to detrimental treatment. The Claimant denies the Respondent’s version of this.
409. In view of our findings of fact, the Tribunal concluded that this was a protected act by virtue of the reference to the allegedly discriminatory vetting process only rather than the Claimant raising an allegation of discriminatory bullying of himself by Mrs Docherty.

PA#4: Richard Smart - March 2022

5.1.4 Complain to Richard Smart about discrimination in March 2022;

410. We find that the Claimant must be wrong about the date and that this was the follow-up call on 28 January 2022.
411. We find that the complaint of the Claimant about Mrs Docherty at this meeting might be best characterised as “micromanagement” in relation to timeliness, attendance at meetings and work contribution but not as race discrimination.

PA#5: Fiona Byrne - March 2022

5.1.5 Complain to Fiona Byrne in March 2022 about racial discrimination;

412. The incident log suggests that on 28 February 2022 Fiona Byrne recorded that a complaint had been made which related to sex and race. There had been an initial conversation between Ms Byrne and the Claimant on 16 February.
413. This was a protected act.

Victimisation (s. 27) & Direct Race Discrimination (s. 13)

414. At the beginning of the final hearing the Tribunal allowed the Claimant to amend his complaint of victimisation to pursue each of the allegations of detriment additionally as a complaint of direct race discrimination pursuant to section 13 of the Equality Act 2010.
415. It has been convenient in the interests of brevity and to aid comprehension to deal in each case with the alleged detrimental (in the case of discrimination less favourable) treatment, followed by whether we find this was victimisation and then whether we found that this was direct race discrimination.

Race generally

416. In relation to these allegations we have not been provided with evidence of overt race discrimination e.g. racist language. We have considered the guidance in **Igen v Wong** [2005] IRLR 258, CA.
417. Most of the considerations to alleged race discrimination above under issue 3 above (the original complaint of race discrimination prior to the amendment) apply to the amended allegations as well.

DETRIMENTAL/LESS FAVOURABLE TREATMENT

418. Did the respondent or respondents do the following things:

Grievance

5.2.1 On 14 February 2022, Sharon Docherty raised a grievance about Claimant, and generally about his behaviour;

419. It is not disputed that Mrs Docherty did raise a grievance about the Claimant's behaviour.

Victimisation

420. Given that the Claimant did not dispute that at the time that she submitted the grievance Mrs Docherty says was unaware that the Claimant had made a protected act, this allegation cannot succeed as a claim of victimisation.

Race

421. The reason for Mrs Docherty's grievance was the Claimant's communication with a former employee Wayne Branch using a social media platform against a background of her genuine perception of his poor performance and the increasing friction for example at meetings in October and December 2021. That entirely explains why she raised a grievance and we do not find that the Claimant's race was any part of it.

Exclusion from training

5.2.2 In February 2022, Matthew Lawrence excluded the Claimant from the directorate training programme;

422. It is not in dispute that the Claimant was not included in an invitation for agile change management training in February 2022 which was sent out by email on 27 January 2022.

Victimisation

423. The Claimant did not dispute Mr Lawrence's account that he had no knowledge of any protected disclosure at this stage. This allegation cannot succeed.

Race

424. It is clear that the Claimant was not included in the Agile change sessions, although he was not the only person to be left out in the wider team.
425. This was potentially detrimental treatment. The question is whether it was because of his race.
426. Of relevance to this allegation and others below involving Mr Lawrence, it was notable that the Claimant and Mr Lawrence had initially got on well in November 2021 when they had first met at an in person meeting, which they each acknowledged unambiguously in the Tribunal hearing. Unfortunately, it is fair to say that by late January 2022 the relationship had soured significantly. We do not find that was because of race, but because of increasing tensions over management and fractious communications in which the Claimant was increasingly disrespectful toward Mr Lawrence.
427. As to training, the Tribunal accepted the explanation put forward by the Respondent. The Respondent was entitled to manage its training programme.
428. It is a fact that Claimant had already recently an unusual large amount of training in the proceeding period (documented on page 2063) and had received Prosci (change management training) and was due to receive Focus on Leadership training on 8-10 February, a 3 day course which was a significant investment. He had suggested that he was not interested in change management in a meeting with Ms Parsons as recently as 21 January 2022.
429. When he queried it the Claimant was told by Mr Lawrence that it was the intention of management that everyone would be trained on the Agile Change Agent course. In other words, he was being reassured that there would be future opportunities to receive this treatment.
430. Looking at the whole picture it appeared that the Claimant was on the balance of probabilities receiving more rather than less training than his colleagues.
431. We do not find that the Claimant's race was a factor in this treatment.

Alleged sanction for training enquiry

5.2.3 In February Matthew Lawrence attempted to sanction the Claimant for enquiring why he had been excluded from the directorate training programme;

Treatment

432. Mr Lawrence did complain on 4 February 2022 that the Claimant had contacted the external training provider about agile training that was going on

Victimisation

433. The Claimant did not dispute Mr Lawrence's account that he had no knowledge of any protected disclosure at this stage. This allegation cannot succeed.

Race

434. The Tribunal considers that it was understandable that Mr Lawrence was unhappy about the Claimant approaching directly an external training provider. His reaction to this was perhaps fairly strong.
435. We find that the strength of Mr Lawrence's reaction was because of the deteriorating relationship between the two men, in which the Claimant had begun to be blatantly and openly disrespectful to Mr Lawrence and also the spat that had occurred over email between the Claimant, Mr Lawrence and Ms Parsons about what the Claimant perceived to be his exclusion from the agile training. We find that those circumstances entirely explain his reaction and do not find that the Claimant's race was a part of it.

Race network request

5.2.4 Also in February 2022, Matthew Lawrence complained after the Claimant had contacted the MOD race network for help on a task. The Claimant did not become aware of this until July 2022;

436. Mr Lawrence did complain on 19 January 2022 about the Claimant seeking resolution of IT issues by emailing 353 recipients on the MOD race network.

Victimisation

437. The Claimant did not dispute Mr Lawrence's account that he had no knowledge of any protected disclosure at this stage. This allegation cannot succeed.

Race

438. We find that Mr Lawrence genuinely did think that approaching 353 recipients in this way was not the best way to go about this and did potentially undermine the credentials of the group of which Mr Lawrence and the Claimant were a part by appearing to go out in a scattergun way seeking advice, especially given that the title of the email included "Help!!" and a grammatical error.

439. Again we find that the strength of Mr Lawrence's reaction was because of the deteriorating relationship between the two men, in which the Claimant had begun to be blatantly and openly disrespectful to Mr Lawrence. The previous day 18 January the Claimant had written to Mr Lawrence with the words "You are wrong" and "I declined to take on this task". Whatever the rights or wrongs of the background to that exchange the Claimant's tone was rude and defiant and showed that he had no respect whatever for Mr Lawrence. In that context it is not surprising that Mr Lawrence had lost his patience with the Claimant and was not inclined to give him the benefit of any doubt of approaching a large email distribution list in this way. Had the two men had a better relationship at this stage we do no doubt that Mr Lawrence would have spoken to the Claimant to offer a measured word of guidance. Given the Claimant's reaction of the previous day we fully understand why Mr Lawrence did not take that approach.
440. We find that these circumstances entirely explain Mr Lawrence reaction and do not find that the Claimant's race was any part of it.

False accusations

5.2.5 Also in February 2022, Matthew Lawrence made false accusations of harassment and breaches of the data protection act. These accusations were made by email to Eleni Parsons;

441. On 17 January 2022 Mr Lawrence queried why the Claimant was dialling in to a meeting both using a laptop and a mobile phone.
442. Mr Lawrence complained to Ms Parsons about the Claimant's conduct on 4 February 2022.

Victimisation

443. The Claimant did not dispute Mr Lawrence's account that he had no knowledge of any protected disclosure at this stage. This allegation cannot succeed.

Race

444. As to the complaint to Ms Parson, we find that Mr Lawrence's various complaints about the Claimant's conduct were entirely explicable by reference to the Claimant's own conduct towards him which was antagonistic and disrespectful in email communication.
445. Mr Lawrence's query of 17 January was against a background where the Claimant had emailed Mrs Docherty saying that he was going to check his "recordings". We find that Mr Lawrence was entitled to be curious about why the Claimant was logging into a meeting twice on two different devices, which the Claimant had bizarrely claimed was "standard operating procedure". Given the business of the Respondent security is of clear importance.
446. We did not find that the Claimant's race was any part of the reason for these matters.

Misconduct

5.2.6 Eleni Parsons put C forward for a misconduct hearing. The Claimant became aware of this in March 2022 but believes it happened pre-March 2022;

Treatment

447. Ms Parsons had initial conversations about the Claimant's conduct concerns with a case worker Janet Fletcher on 14 and 15 February 2022, which the latter documented on 16 February 2022. Although it seems that Ms Parsons had some awareness of Ms Byrnes having talked about the Claimant allegations, that cannot have been the basis for her beginning to raise concerns on 14 February, since this predates by two days the Claimant informal conversation with Ms Byrne, and by a couple of weeks the formalisation of that complaint in writing by Ms Byrne on 28 February 2022.
448. Ms Parsons followed up with further detail on 28 February 2022 which she complained of the Claimant's complaints of discrimination which she said was directed at her personally. That cannot therefore have been a reference to the first protected act which was directed at Mrs Docherty and Ms Bianco. By 28 February matters were in train from Ms Parsons' original conversation with Ms Fletcher on 14 February.

Victimisation

449. We have examined carefully the content of the internal grievance interview in which Ms Parsons said that Mr Smart had talked to her about a week into her role (she started on 10 January 2022) and also that she had some awareness that Ms Byrnes had spoken to her line manager. As discussed above we have not been able to identify who that is since "her" is ambiguous in that context and could potentially refer to three different people.
450. We have come to the conclusion that Mr Smart's enquiry most likely follows on from with his own conversation with the Claimant on 28 January. That is a little over two weeks into Ms Parsons' role, but we suspect that she was not being precise about the timescale. His account which we accepted is that the Claimant was complaining about Mrs Docherty placing constraints on his way of working and what might be characterised as "micromanagement" (our term), rather than race discrimination.
451. We accept the Respondent's submission that the only protected act Ms Parsons was aware of was the Claimant's comment about the security vetting process being discriminatory, which he raised directly with her in conversation. That we find was of no real consequence because it was neither a criticism of her nor the immediate management team, but rather was a criticism of vetting policy which fell well outside of the work that the Claimant and Ms Parsons were involved in.
452. The immediate background to this was the Claimant badgering Ms Parsons about the training question and the complaints that she was receiving from Mr Lawrence at the tail end of him task managing the Claimant. It was clear that

the Claimant felt that he had been singled out in respect of training. Although he had not mentioned his race in those emails we find that it was on balance most likely Ms Parsons was responding to that lengthy exchange, since that was the point of conflict between her personally and the Claimant. She was using the word “discrimination” in a non-technical sense in her complaint about the Claimant on 28 February.

453. Ultimately we found that Ms Parsons complained about the conduct of the Claimant because she thought it was inappropriate the way that he was communicating with her as a line manager. That is the entire explanation and not a protected act.

Race

454. We found that Ms Parsons complained about the conduct of the Claimant because she thought it was inappropriate the way that he was communicating with her as a line manager. That is the entire explanation and not the Claimant’s race.

Scrutinising time spent

5.2.7 On 28 February 2022, Eleni Parsons subjected C to checks including asking him to count how many minutes he had spent in meetings and the times he had joined meetings;

Treatment

455. The way that this allegation has been framed somewhat mischaracterises what occurred and decontextualises it.
456. Ms Parsons did request on 28 February 2022 to account for his time. The context, described in detail above was that he had not done what he had been asked to do when she went on leave, and when she asked him appropriately what he had been doing he was responded tersely. He was unforthcoming and failed to engage with the fact that he had not done what he had been asked. This led to a further exchange in which she asked him to account for his time.

Victimisation

457. We find that the emails exchange degenerated because the Claimant was unforthcoming in updating Ms Parsons as to what he had been doing. This was against a background where he had not done what he had been asked to do. We do not find that this was because of a protected act.

Race

458. For similar reasons we find that the email exchange itself explains how the communication degenerated. We do not find this was because of the Claimant’s race.

Unrealistic tasks

5.2.8 From 28 February 2022, Eleni Parsons set C up with unrealistic tasks and targets with the intention of putting him on a formal performance management plan which would, C says, have inevitably led to dismissal.

Treatment

459. The tasks complained of are:

1) on 28 February 2022, being asked to gather information for a Sharepoint site. The Claimant says that he was provided with information as to who to contact, but that the parameters of the task kept changing making it impossible to complete; and 2) being asked to build a series of social speaker events. The Claimant says that this took place at some point between 28 February and 14 March 2022;

460. The burden is on the Claimant to show the facts which are the basis for this allegation, i.e. that tasks were unrealistic, and the parameters were changing.

461. We considered whether the Claimant has satisfied the Tribunal that he was being set up to fail, specifically with the goal of putting him on performance plan which would inevitably lead to dismissal.

462. The Claimant's witness statement simply restates the allegation without providing any supporting context. When he was asked about this in cross examination he replied, "Memory doesn't serve 4 years later".

463. Looking at the contemporaneous documentation, in his email of 3 March 2022 the Claimant stated in terms that he felt that he was being set up to fail. That is what he stated at the time.

464. The reality, we find is that having achieved a promotion up two grades into a type of internal consulting role there were significantly higher expectations of the work rate, quality of work and the degree to which the Claimant would show initiative. We have considered the guidance on expectations of this grade and set out part of that guidance above.

465. Feedback from a succession of managers and internal clients in the period 2020-2022 suggested that they were not fully satisfied that the Claimant was delivering at the expected level although some positive elements were identified at various stages.

466. Ms Parsons' evidence was that she did not set the Claimant up with unrealistic tasks and targets with the intention of putting him on a formal performance management plan nor with the intent to dismiss him. Her evidence was that the tasks given should have been within the capability of someone at a SEO grade for two years which the Claimant was.

467. We can see that she provided him with clear structured guidance on 15 February 2022 for her absence. She envisaged that he would submit work after a week on 22 February and then discuss that with Matt and Michael. That should have provided the Claimant with a focus and input to improve the material that he was working on. That discussion did not happen. Nearly a week later on 28 February the Claimant had not rearranged the requested discussion.
468. Subsequent to these matters we accept that Ms Parsons gave the Claimant administrative work tasks which were in her view *below* the level of his grade detailed by her in paragraph 72 of her witness statement. That is the precise opposite of setting him work was too difficult to complete.
469. What the Claimant has characterised as moving goalposts were in reality feedback and critiques of the content to attempt to improve the end product. By failing to follow through on Ms Parsons' suggestion to meet with Matt and Michael and apparently not making any attempt to reschedule, the Claimant missed out on the opportunity to discuss and improve his work.
470. Ms Parsons' email of 3 March, following on from the abortive meeting of 1 March 2022 when the Claimant sought to record the meeting and Ms Parsons would not agree to that, she commented that it was "a good attempt" but that comment was qualified with a series of suggestions as to future improvement. As we comment above, those suggestions and comments might have been better delivered and better received in a meeting but due to the impasse over recording that opportunity was lost. Ms Parsons questioned the amount of effort that the Claimant had invested in it.
471. By this stage it seems that the Claimant felt demoralised and defensive and seemed to believe that whatever work he produced he would be criticised.
472. The factual basis for this allegation i.e. that there was an intention to place him on a poor performance which would inevitably lead to has not been made out. Notwithstanding the comments suggesting slight disappointment in the amount of work and areas for improvement, we do not find that Ms Parsons was deliberating setting up the Claimant, nor do we find that a dismissal for poor performance was an inevitable consequence.

Victimisation

473. We are not satisfied that the factual basis for this allegation has been made out. In any event, we did not find that making of protected act was the reason for Ms Parsons actions discussed above. As at 15 February 2022 when she provided the initial brief to the Claimant this predated the complaint to Ms Byrne and at that stage Ms Parsons was not aware that the Claimant had raised an allegation of discrimination under the BHDV process.

Race

474. We are not satisfied that the factual basis for this allegation has been made out. In any event, we did not find that the Claimant's race was the reason for Ms Parsons actions discussed above.

False allegations

5.2.9 Eleni Parsons made false accusations of harassment and breaches of the data protection act. The Claimant was notified of this by email on 22 March 2022 but does not know on what date the original accusations were made;

Treatment

475. This allegation relates to Ms Parsons complaint which led to a misconduct investigation. She discussed her complaint with a caseworker on 14 and 15 February and then added some additional points by email on 28 February 2022. She also complained about a breach of organisational rules and policy for virtual meetings and personal data (JSP 440, JSP 441) specifically in relation to incident on 1 March 2022 when the Claimant was attempting to record a scheduled virtual meeting.

Victimisation

476. We accept Ms Parsons' evidence that these complaints were made in good faith because of the Claimant's conduct in persisting in a complaint about training and her insisting on attempting to record a meeting without her consent on 1 March 2022 and her concerns about it. We accepted that she had never experienced anything like the Claimant's conduct in her career and had only been managing the Claimant for a number of weeks when she put in the complaint.
477. As at 14 February 2022 when she raised a complaint with Ms Fletcher the case worker this predated the Claimant's complaint to Ms Byrne and at that stage Ms Parsons was not aware that the Claimant had raised an allegation of discrimination under the BHDV process.
478. We do not find that the reason for these complaints was a protected disclosure. The reasons for the complaint were we find the concerns that were raised within the complaints.

Race

479. We do not find that the reason for these complaints the Claimant's race. The reason for the complaint was the concerns that were raised within the complaints.

Shelley Grattidge

5.2.10 On 18 July 2022, Shelley Grattidge (i) formally accused the Claimant of harassment (ii) made an unreasonable finding of

breaching organisational rules pertaining to virtual meetings and personal data (iii) oppressively used organisational policy and non-existent policy to punish the Claimant. The policies complained of are JSB 440 and 441. The non-existent policy is a policy that Teams meetings cannot be recorded without the consent of the individuals involved; and (iv) put the Claimant forward for a misconduct hearing;

Treatment

480. As to the individual elements of this allegation:
481. (i) Ms Grattidge did not formally accuse the Claimant of harassment. The decision-maker was Helen Holder; she had directed an investigation and supplied the terms of reference to Ms Grattidge on 28 March 2022.
482. (ii) and (iii) we find that JSP 440 and JSP 441 (wrongly identified in the list of issues as JSB) were actual policies. The relevant section of JSP 440 was not complete and not relied upon. We have quoted above JSP 441 which is relevant to recording in meetings. This policy was provided to the Claimant using a hypertext link during the course of the internal process.
483. (iv) the fact that she found a case to answer, which the Claimant did not agree with does not in itself amount to either detrimental or less favourable treatment.

Victimisation

484. Ms Grattidge made a finding that there was a case to answer that was open to her on the evidence she had. The Claimant largely failed to engage with the internal investigation interview largely giving “no comment” type answers which were unhelpful and thereby losing his opportunity to comment on or correct things that had been raised by Ms Parsons. He had plainly upset Ms Parsons through his conduct and was seeking to record a meeting without her permission, which appear to engage policy JSP 441.
485. We found that Ms Grattidge did no more or less than perform her role as an investigator. She was almost certainly bound to come to a conclusion that one side or the other would not be happy with.
486. We accepted Ms Grattidge’s evidence that her findings were not related to the Claimant raising any grievance or complaint.
487. We did not find that the making of a protected act was the reason why Ms Grattidge found that there was a case to answer.

Race

488. The Claimant has cited no non-Black African comparator in relation to this allegation nor any other evidence from which an inference of race discrimination could be drawn. Ms Grattidge says and was not challenged on this that she was not aware of the Claimant’s race until the investigation interview.

489. There were plainly reasons for Ms Grattidge's conclusions based on the evidence, not least the Claimant's failure to properly engage with the interview.
490. We did not find that the Claimant's race was a factor in Ms Grattidge's conclusions.

Martyn Williams

5.2.11 On 19 April 2023, Martyn Williams (i) used prejudicial information outside of the investigation Terms of Reference to justify holding Sharon Docherty's complaint (ii) accused the Claimant of making complaints "unprofessionally", and referred to "repeating inappropriate behaviour, sometimes aggressive, confrontational, demeaning and you acting actively against SD, creating a negative culture of accusation. There is significant pattern of inappropriate challenge towards SD and multiple managers, with commentary approaches leaving SD and various staff feeling intimidated or uncomfortable working with your aggressive, threatening, rude, and disparaging responses characterised with excessive and severe rejection of reasonable line management and business requests seeking to manage tasks, your and understand your situation (iii) found C guilty of bullying and harassment (iv) put C forward for a misconduct hearing

Time

491. This is the only allegation in the claim which is brought in time. We are dealing with this on the substantive merits.

Treatment

492. Dealing with each element in turn.
493. (i) Martyn Williams correctly identified that Mr Applegate had not dealt with all of the elements of Mrs Docherty's complaint about the Claimant. Accordingly he dealt with those in the appeal. We do not see this as detrimental treatment.
494. (ii) we find that Mr Williams produced a careful and nuanced report. He acknowledged that the Claimant was on occasion respectful, professionally articulate in his approaches and reasonably considered in his challenges to management. He found there are other occasions where the Claimant was less than respectful and was sometimes inappropriate. That was open to him on the evidence and consistent with our own findings above.
495. (iii) finding Mrs Docherty's complaint against the Claimant made out at the appeal stage was open to Mr Williams on the evidence.
496. (iv) as to the referral for misconduct this was a consequence of his findings.

497. The Tribunal did not find any of these amount to detrimental or less favourable treatment. Mr Williams was simply carrying out his role as appeal manager. In a similar way to Ms Grattidge at an earlier stage in the process, he was likely to come to a conclusion there was unpopular with someone. It does not follow from that that this was detrimental or less favourable treatment, provided that he considered the evidence before coming to a conclusion based on the evidence. We find that he did that.
498. If we are wrong about that, however, we have gone on to consider whether this was victimisation or direct race discrimination

Victimisation

499. Mr Williams was plainly aware of the Claimant's grievance which was a protected act. It was his job to deal with this at the appeal stage. He was not himself affected by or implicated by the Claimant's allegation of race discrimination. He was an independent appeal manager.
500. We accepted Mr Williams' evidence that he was not influenced by the allegation of discrimination within Claimant's grievance to come to the conclusion that he did. We can see that his decision is based on the evidence.

Race

501. The Claimant has cited no non-Black African comparator in relation to this allegation nor any other evidence from which an inference of race discrimination could be drawn.
502. There were reasons for Mr Williams conclusions which were based on the evidence in the case.
503. We did not find that the Claimant's race was a factor in Mr Williams conclusions.

Legal test for victimisation

504. Each of these questions has been dealt with as part of the discussion above:
- 5.3 By doing so, did it subject the claimant to detriment?
- 5.4 If so, was it because the claimant did a protected act?
- 5.5 Was it because the respondent believed the claimant had done, or might do, a protected act?

Conclusion on victimisation and discrimination allegations (Issue 5)

505. All of the allegations in the complaint of race discrimination brought by way of amendment are out of time. We have not found it just and equitable to extend time and this complaint is dismissed. Had this complaint been brought in time or time extended we would have dismissed each allegation on the substantive merits.

506. All of the allegations in the complaint of victimisation save 5.2.11 are out of time. We have not found it just and equitable to extend time and these are dismissed. Had these allegations been in time or time extended we would have dismissed each allegation on the substantive merits.
507. Allegation 5.2.11 in that complaint of victimisation is dismissed on the substantive merits.

6. Detriment under section 44 of the Employment Rights Act 1996

7. Detriment under section 47C of the Employment Rights Act 1996

508. Both complaints 6 and 7, detriments under section 44 and 47C of the Employment Rights Act 1996 respectively we found were out of time, given that the material events were in October 2021 and the claim presented 18 July 2023.
509. We did not find that there was a continuing act such as to bring these claims in time.
510. The burden was on the Claimant to show that it was not reasonably practicable to present his claims. The Claimant has had prior experience of the Employment Tribunal and is an intelligent and articulate person. He has not established any reason which prevented him from bringing claims on these matters in time.

We did not find that it was not reasonably practicable in respect of either claim and accordingly do not extend time for this claim, nor is there a need to deal with the substance of either claim.

Employment Judge Adkin

Date 31 March 2025

JUDGMENT & WRITTEN REASONS SENT TO THE PARTIES
ON

10 April 2025

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FOR THE TRIBUNAL OFFICE