

**Case Number:** 3300828/2024



# EMPLOYMENT TRIBUNALS

Mr. Ashok Ahir

V F Hinds Limited

**Claimant**

**Respondents**

**Heard at:** Watford Employment  
Tribunal

**On:** 17- 19 February 2025

**Before:** Employment Judge Daley  
Mr. Peter Miller- Employment Member  
Mr. Andrew Scott-Employment Member

**Appearances:**

**Reas**

**For the claimant:** Mr Peter Wearing –Solicitor

**For the respondents:** Mr Oliver Longs - Counsel

## WRITTEN DECISION

## JUDGMENT

- i. The complaint of direct age discrimination is not well-founded and is dismissed.
- ii. The complaint of harassment related to age discrimination is not well-founded and dismissed.
- iii. The complaint of victimisation is not well-founded and is dismissed.

# **REASONS**

## **The claim**

1. The claimant's claim was for Direct Age Discrimination (Section 13 EA 2010), Harassment due to age discrimination and victimisation due to age discrimination.
2. The claimant was aged 60 at the time of his employment, he was employed in the role of Internal Audit Assistant, he commenced his employment on 22 September 2022 until 21 May 2024 when he resigned.

## **The procedural history**

3. The claimant applied for ACAS early conciliation on 4 December 2023. The early conciliation period ended on 21 December 2023, and a certificate was granted.
4. The claimant issued his ET 1 on 21 January 2024. A Notice of claim, from the Tribunal provided that the respondent submitted a response.
5. The respondent filed a response on 28 March 2024 denying the claimant's claim.
6. The matter was listed for a preliminary hearing on 21 May 2024, where directions were given.

## **The Issues**

7. The issues have been set out as the Tribunal understood then to be, and which are relevant, in reaching this decision.
  - Were the discrimination and alternatively harassment complaints made in respect of matters made within the time limit in section 123 of the Equality Act 2010?
  - Did the Respondent treat the Claimant less favourably than it treats or would have treated others?
  - To the extent that the allegations are factually well-founded: - was it less-favourable treatment by reference to an actual or hypothetical comparator? The claimant identifies the following actual comparators: - Ms. Jess Handley (Internal Audit Assistant, aged between 25- 35) Are these valid comparators for the claimant's age discrimination complaints?
  - Alternatively, the Claimant refers to the hypothetical comparator of an Internal Audit Assistant, aged 20-30, working at the Respondent. Are there facts from which the tribunal could decide, in the absence of any other explanation, that the Respondent discriminated against the Claimant?
  - Did the Respondent's behaviour amount to: unwanted conduct; related to the Claimant's Age [Claimant aged 60 at the time of the Alleged Incidents]; or which had the purpose or effect of violating the Claimant's dignity and/or creating an

environment that was intimidating, hostile, degrading, humiliating or offensive to the Claimant?

- Did the Claimant do a protected act within the meaning of section 27(2) of the Equality Act 2010? The Claimant relies on the following: his Grievance, on or around 11 September 2023, raising issues of Age and Sex Discrimination. Did the Respondent subject the Claimant to detriment because the Claimant had done a protected act or, that the Respondent believed, that the Claimant had done, or may do, a protected act? (EqA 2010, s 27(1)).
- The Claimant relied on the following: Mr. Pike's ultimatum to the Claimant on 20 November 2023 that he should either take a months' notice or accept a demotion following the outcome to his Grievance.

## **The Hearing**

### **Attendance**

8. The hearing was held at Watford Employment Tribunal. The claimant, Mr. Ashok Ahir, was in attendance represented by his solicitor Mr. Wearing. Mr. Oliver Long- Counsel was in attendance on behalf of the respondent.

### **Introduction**

9. The claimant was employed at the respondent company as an Internal Audit Assistant. The respondent is an independent family run business established in 1856, comprising 115 retail stores, with approximately 1000 employees.
10. Part of the Claimant's role during his employment was to undertake stock takes at various retail stores throughout the country, and to provide reconciliation reports. It was agreed that the role was advertised as 'not requiring previous experience' and that on-the-job training would be provided.
11. The Claimant who was born in 1963 alleges the following-: that during his employment after he successfully completed his probationary period (confirmed on 15 February 2023,) in March 2023 whilst he was undertaking a stock take in Shropshire, Mr. Hinds, the director of the respondent company, during an informal discussion, referred to Mr. Ahir as "an Old Git".
12. The claimant alleged that on 7 July 2023, one of the respondent's employees, Ms. Yaqub returned to visit the office during her maternity leave. She is alleged to have said to the Claimant "you are doing a Good Job otherwise you would not be here!" He interpreted the way this was said to amount to a hostile remark.
13. Further, on 21 July 2023, the claimant was informed by his manager that concerns had been raised about his performance during stock taking which had taken place at one of the respondent's retail stores. It was alleged that he was "...too slow and his performance was not at the level expected for the role." The claimant did not accept that the concerns raised were genuine; his claim is that the concerns raised were false, and part of a pattern of behaviour which amounted to harassment on account of his age.

14. The Claimant raised a grievance as he believed these concerns to be untrue. His grievance was considered by Mr. Hinds at a Grievance Meeting which took place on 19 September 2023. Mr. Jeremy Hinds was also the note taker at the meeting. The Claimant considered that this was unfair, as part of his grievance was about the alleged remark made by Mr. Hinds referring to him as an "Old Git". The grievance was subsequently not upheld.
15. In September 2023, at a stock take in Bath, Ms. Clark, an employee of the respondent, was alleged to have made negative comments about the claimant's previous stock taking whilst with a colleague Jess. It was alleged by the claimant that Ms. Clark had repeatedly remarked to the claimant words to the effect of "...Your old, your old your old".
16. On 21 November 2023, the claimant was informed that due to under performance on his part, he could either accept a months' notice or a demotion, the claimant went on sick leave and resigned on 21 May 2024.
17. The claimant claims by reference to the treatment set out above that the actions of the respondent's employees and the director, Mr Hinds were direct discrimination and harassment, The claimant further alleges that he was victimised on account of his bringing a grievance concerning his treatment.

## **Preliminary Issues**

18. At the hearing the respondent made an application to strike out the claimant's claim.
19. Mr Long told the Tribunal that the respondent had made an application on 14 January 2025, to strike out the claimant's claim he set out that disclosure had taken place in December 2023, the deadline for the exchange of witness statements was on 13 January 2025, However Mr Long told the Tribunal that after witness statements had been finalised in January the claimant disclosed over 100 pages. Further when the witness statements were exchanged on 14 January 2025 a recording and transcript of a tape recording was also included rather than having been disclosed as part of the disclosure of documents. Further even up to the 14 February 2025 the claimant was seeking to disclose additional documents.
20. The Application to strike out was made on the basis that the claimant had acted scandalous and unreasonable in the way the proceedings had been conducted. Mr. Long set out that there had been disclosure by surprise, and no mention of the transcript prior to disclosure of the transcript. He questioned whether a fair trial could take place. He submitted that the claimant had sought to admit evidence outside of the deadline. He further submitted that the Tribunal should also consider the matter of the unseemly nature of the recording which had been made by the claimant and "the dubious value" of what is in it. He invited the Tribunal to strike out the claimant's claim.
21. Mr. Wearing opposed the application; he submitted that such an application was draconian. He reminded the Tribunal that this case was listed for three days. He stated

that far from being vexatious the case was a serious case, and if the allegations were proved, it was deeply hurtful for the claimant, and as such could not be considered vexatious or frivolous.

22. Mr. Wearing informed us that in relation to the application for additional documents to be admitted the text messages which the claimant sought to be admitted were of notable events which had taken place during the day. They were his contemporaneous record; he may not have appreciated the significance of the text messages to himself. He had also not appreciated the significance of the information on the product knowledge and the training log. However, Mr. Wearing noted that the screenshots of the I-messages were of relevance and importance to the claimant and given this he asked for them to be admitted.

### **The Decision of the Tribunal on the application to strike out the claimant's claim**

23. The Tribunal carefully considered Rule 37 of the Tribunal Procedure Rules. In reaching its decision the Tribunal noted that the application under rule 37 (b), was made on the basis that the conduct of the claimant in respect of late disclosure meant that it was 'no longer possible to have a fair hearing. The Tribunal considered the test it had to determine whether it was no longer possible to have a fair hearing.'
24. Although the Tribunal finds that the claimant had dealt with disclosure in a piecemeal manner, the Tribunal asked itself whether it was still possible to have a fair hearing. The Tribunal determined that although there was some prejudice to the respondent as although the disclosure had been sent late, it was served sufficiently in advance of the hearing so that the respondent was not taken by surprise. The Tribunal finds that the threshold had not been reached where the tribunal could find that it was not possible to have a fair hearing.
25. Accordingly, the Tribunal determined that it would be disproportionate to strike out the claimant's claim.
26. In relation to the transcript of the conversation which took place in March 2023, the Tribunal noted that the respondent was aware of the transcript, and that they have also had an opportunity to listen to it as the issue of its existence was raised in correspondence from the claimant almost a year ago, The Tribunal considered the transcript was relevant to the claim of discrimination and as such it was fair for the Tribunal to consider it as part of the claimant's claim.
27. In respect of the claimant's later I phone text notes, The Tribunal was not satisfied with the explanation proffered for why they were not previously disclosed prior to 14 February 2025. The Tribunal considered that it would be disproportionate to admit these documents, as there would be unfair to the respondent. Given the fact that the hearing was due to take place, the respondent would not have the opportunity to carry out an examination of the phone and provenance of the notes, accordingly the Tribunal refused to admit the I-phone notes and the training record and the product information.

## **The Hearing**

28. The hearing took place over three days; the Tribunal considered the claimant's witness statement and heard the claimant's evidence under oath. The Tribunal also considered the respondent's witness statements and heard from the following witnesses who also gave evidence under oath and affirmation on behalf of the respondent; Mr Wayne Tibbles, Ms. Leanne Clark, Ms. Jessica Handley, Mr. Steven Cornwall, and Mr. Jeremy Hinds and Mr. Paul Hinds.
29. The Tribunal was also provided with a bundle of documents and a supplementary bundle comprising 218 pages. Both counsel Mr Long and Mr Wearing assisted the Tribunal by providing written closing submissions which were supplemented by their oral submissions.

## **The Law**

### **Direct Discrimination Section 13 Equality Act 2010 ("EqA")**

30. Direct discrimination occurs when someone is treated less favourably than others because of a specific protected characteristic.
31. Section 39(2)(d) ("EqA") provides that an employer must not discriminate against their employee by subjecting him to any other detriment. Accordingly, less favourable treatment cannot amount to direct discrimination unless it amounts to a detriment. Something will amount to a detriment where a reasonable person would or might take the view that the act or omission in question gives rise to some disadvantage which need not necessarily involve some physical or economic consequence.

### **Harassment Section 26**

32. Refers to unwanted conduct which has the purpose of violating another person's dignity or creating an intimidatory hostile, degrading, humiliating, or offensive environment.
33. Section 26(1)(a) EqA requires that the conduct in question be related to a relevant protected characteristic such as the claimant's age.

### **Victimisation Section 27 EqA**

34. A person (A) victimises another person (B) if A subjects B to a detriment because—(a) B does a protected act, or (b) A believes that B has done, or may do, a protected act. 2) Each

of the following is a protected act—(a) bringing proceedings under this Act; (b) giving evidence or information in connection with proceedings under this Act; (c) doing any other thing for the purposes of or in connection with this Act; (d) making an allegation (whether or not express) that A or another person has contravened this Act.

## **Finding of Facts**

### **Direct Age Discrimination**

#### *The ageist remark*

35. We heard from the claimant concerning the first allegation. He told us that this took place whilst he was undertaking a stock take with Mr. Jeremy Hinds,
36. In his witness statement at paragraph (7) he stated that:- *“On 14th March 2023 I went on a three-day stock take to Shropshire visiting stores in Wolverhampton, Telford, Wrexham, Shrewsbury and Merry Hill with Jeremy, Steve Mellows and Oliver Jones (Oliver). We stayed two nights in the Raven Hotel. On 15th March 2023, the following incident occurred. On this day we had returned to the hotel and we four were having our evening meal in the Raven restaurant, Jeremy who is aged approximately 30 to 40, was in attendance as well as Steve Mellows and Oliver of similar age to Jeremy. I recall that we were having a conversation, and Jeremy had said that he really wanted a Mazda MX5 convertible car his dream car, and I said, “my ex-girlfriend used to have a Mazda MX5 and we would have the roof down and such a nice car everyone would look at us “. In response to my comment, Jeremy said “Ash, you old git.” I was shocked, offended and humiliated by this comment since Jeremy was belittling me because of my age in front of other colleagues. I was not happy with this comment, but since Jeremy was the director of the respondent, I did not feel that I could say anything about it to him, as I feared my job would be in jeopardy. In addition, I was in the middle of the countryside, and it was snowing outside, and I had no means to leave and go home...”*
37. In answer to questions from Mr. Long, the claimant stated that he made a note that this incident had occurred and that he raised it with his manager Mr. Wayne Tibbles. He told the Tribunal that he considered it difficult to do anything about the incident as it was a family business and Mr. Hinds, as well as being a member of the family, was a director.
38. However, the experience left him feeling uncomfortable. He told the Tribunal that he did not raise a grievance at the time, as he did not consider that it would be upheld.
39. In his witness statement Mr. Jeremy Hinds stated that *“On 23 March 2023 I did not make the comments to Mr. Ahir “...you old git” or “old git” nor did I make this comment on any other occasion.”* In his evidence and in the witness statement he told the Tribunal that *“The comment is offensive and not something I would say to any employee.”*
40. Mr. Hinds told us that this alleged remark was not raised by the claimant prior to his convening the grievance meeting, nor did the claimant cite it as an allegation of direct discrimination at the meeting on 25 September 2023.
41. He told the Tribunal that had the allegation been raised he accepted that he would not have been an appropriate person to deal with the grievance.
42. He told the Tribunal that the first occasion on which he became aware of this allegation was in a letter sent by the claimant on 3 December 2023, which was the same day on

which Mr. Ahir applied to ACAS. Mr. Hinds told us that the claimant did not raise the issue of direct age discrimination as having been carried out by any employee of the respondent at the grievance meeting on 23 September 2023, although he did raise the issue of sex discrimination.

43. He referred to his note of the grievance which he understood had been agreed as accurate, at the end of the meeting. The Tribunal considered the claimant's letter to Mr. Hinds dated 3 December 2023 in which he stated "...In my grievance meeting with yourself on 23/3/23 (sic.), you may recall that I had some typed notes that I referred to in our meeting *that I showed you. You may recall that you asked for a copy of the notes. I attach a copy of my contemporaneous notes used in our meeting of 25/9/23... can you confirm that I did state to you that you called me an "old git" at the Raven that you did not deny saying.* In his letter he concluded by stating that if he did not hear from Mr. Hinds within 5 days, he would take in that the *"above facts are agreed."*
44. The Tribunal also heard from Mr. Tibbles who told the Tribunal that the remark had not been reported to him.
45. The Tribunal, having heard from both the claimant and Mr. Jeremy Hinds, accepted Mr. Hinds evidence that the alleged ageist remark had not been discussed at the grievance, and that if it had, Mr. Hinds would not have heard the grievance and would have appointed someone else.
46. The Tribunal carefully considered the evidence as set out in Mr. Jeremy Hinds' notes; it noted that there was no record of this having been reported at the time. The remark was not included in the original grievance, and Mr. Tibbles denies that the remark had been reported to him.
47. Having considered all the evidence, the Tribunal could not be satisfied that the remark had been made on a balance of probabilities.
48. The Tribunal found that claimant failed to establish facts from which, in the absence of any other explanation, point to a contravention of the Equality Act having occurred. Accordingly, the claim for direct discrimination fails.

## **Harassment related to age**

### *The concerns raised about the claimant's performance*

49. The claimant alleged that the concerns raised about his performance at work were false and were part of a pattern of harassment which was related to his age.
50. In his witness statement at paragraphs 10 and 11, he stated that *"... Wayne raised concerns about my performance, which he said he had received from other members of staff. I disputed and disagreed with some of Wayne's comments as I felt there were no issues with my work. Wayne stated that Ms. Leanne Clark (Leanne), who is employed in the Web Sales Team, had commented that I was "a bit slow" at stocktakes. Wayne produced a pre-prepared note that appears at page 51 of the bundle. I refused to sign the note as it was not an accurate record of our conversation and felt pressured by Wayne and reluctantly signed it. I note, however, that the comment made by Leanne—that I was "a bit slow"—is not recorded in these notes. (2) In relation to the allegation that I was slow at stocktakes, I would refute this. (11) I also maintain that Leanne's comments*



*were wholly unjustified and irrelevant since I had not worked with her for some months since I was new to the job.”*

51. The Tribunal heard that on 10 July 2023, Mr. Paul Hinds, managing director, wrote to Mr. Steve Cornwall, the financial director. It is apparent from the content of this email, that this email followed a discussion that they had been having about the claimant's performance.
52. In the email Mr. Paul Hinds set out that he had been on a tour (stocktaking of the Southwest and described himself as “quite worried by Ashok's performance on the tour”. He concluded his email by saying “This was the first time I have been on tour with Ashok, and I was surprised at the level he was operating at. I would expect someone in his role in internal audit and his time in the business to be operating at a much higher level.”
53. Although the claimant states that he had by this stage informed Mr. Tibbles ( who was his direct line manager), about the remarks that Jeremy Hinds was alleged to have made, the Tribunal finds that there was no evidence that anyone other than the claimant was aware of these remarks having been said, having carefully considered the evidence of both Mr. Ahir and Mr. Hinds the Tribunal is unable to find that it was more probable than not that the remark was made. The Tribunal also heard no evidence to suggest that this allegation had been put to Mr. Hinds and that it had the effect of influencing Mr. Paul Hinds in his raising concerns about the claimant's performance.
54. The Tribunal finds that the email written by Mr. Paul Hinds to Mr. Steve Cornwall was passed on to Mr. Tibbles, (the claimant's line manager) and this was the reason why he decided to meet with the claimant on 21 July 2023.
55. The Tribunal further found that prior to meeting with the claimant on 21 July, Mr. Tibbles had discussed the claimant's performance with other members of staff who had worked with the claimant who confirmed that there were concerns which they had also noted with the claimant's performance. In the note of the meeting. It was noted that “...  
*Some of the main areas of concern are as follows:-*
  - a. *The ability to perform the instore reconciliation at the end of a stock take. For example, it is apparent that you have an unclear understanding of the ring size contras*
  - b. *There have been noted issues where your counting of reserve stock has not been completed in a methodical manner so that items could be easily located should a query arise.*
  - c. *You have also been putting items to one side for ID due to the item appearing red on the spreadsheet, whereas you should be reviewing the picture of the code to check against the item, check the ring's size if the item is a ring and putting ok on the spreadsheet. The item does not need to be left until the end of the stock take*
  - d. *Stock takers are unable to rely on you with relatively simple tasks set as it seems you lack the understanding of what is being asked of you...”*
56. The Tribunal noted that the concerns were discussed, and the meeting was documented and signed by the claimant and Mr. Tibbles.
57. A further complaint made by the claimant was that Ms. Clark had made malicious remarks to Mr. Tibbles concerning the claimant's performance and that this was due to his age. However, there is nothing in the remarks which suggest that Ms. Clark was one of those who initiated the concerns raised about the claimant's work.

58. In her evidence to the tribunal, she accepted that she had been asked about the claimant's work and had given her honest opinion that she found him to be slow at undertaking tasks.
59. Following the meeting with Mr. Tibbles, the claimant claimed that the respondent failed to provide him with appropriate training so that he could improve his performance. Although it was not alleged by the claimant that the failure to support him in making improvements was part of his case, the Tribunal heard from Mr. Tibbles.
60. Mr. Tibbles told the Tribunal that he undertook on-the-job training with the claimant, which the claimant disputed. In support of this, Mr. Tibbles provided detailed notes. The Tribunal has not found it necessary to assess or form a view as to whether satisfactory training was provided in relation to the claimant's role.
61. Whilst the Tribunal recognized that the tests are not the same and 'related to' can be a looser causal connection, The Tribunal finds that it was not related to age but related to genuine concerns that the respondent had concerning the claimant's performance in his role. Given this, having taken account of the claimant's perception when we have considered the other matters in section 26(4) including the other circumstances of the case and whether it was reasonable for the conduct to have that effect, we find that the meeting with the claimant on 21 July 2023 comment did not have the proscribed effect. It was in the context of a discussion with the claimant about the need to improve his performance at work.

*The alleged remark made by Ms. Clark*

62. In his witness statement at paragraph 12, the claimant alleges as follows:- *"...On 7th September 2023 I went on a stock take to Bath with Leanne and Jessica and I was driving. We did the stock take, and we finished on time and there were no issues. Leanne made inappropriate comments to me 'your old your old' several times that Jessica is witness to. I reported this to my manager Wayne and again he did nothing."*
63. The claimant claims that this event was witnessed by Ms Jessica Handley and referred the Tribunal to a transcript of a recording that he made of a conversation with Ms Handley. The Tribunal firstly considered the remark which was alleged to have been made and next whether Ms Hadley confirmed this in her conversation with the claimant.
64. The Tribunal heard from both the claimant and the Ms Clark. In her witness statement Ms Clark stated as follows:- *"I do remember the stocktake in Bath although it was on the 7 September 2023 and not on 15 September... At no point in the day did I say to Ash "You're old" first and foremost it is not in my nature to be rude. Secondly, I work with people every day that are older than Ash and never think twice about their age. I do not consider age to be a factor at how competent someone is at their job."*
65. The Tribunal was told by the claimant that Ms Hadley was a direct witness to this event, and in support of this the Tribunal was referred to the transcript of a telephone call which had been made covertly.
66. In her witness statement dated 13.01.25 Ms Hadley denied hearing the alleged remark. In her second witness statement date 25.01.25, Ms Hadley stated that she considered it unusual for the claimant to call her, and at the time she had just returned from a stock take and was busy at home. She recalled that she was agreeing with what the claimant

was saying, however told the Tribunal that this was to end, rather than prolong the telephone conversation.

67. The part of the very brief transcript was set out in the claimant's witness statement as follows:-

*AA you remember when we left the shop, and I said to her how do you think I done and she said your old and in the car.*

*JH: Yeah*

*AA: she said a couple of times I wasn't very happy but didn't say nothing to her do you remember cos you were with me*

*JH: Yeah, I vaguely remember."*

68. In the transcript the claimant refers to Leanne having said "Your old and stuff..." To prompt Ms. Hadley's memory. He further referred to "... When I drove and nearly fell asleep". Having listened to the transcript, the Tribunal could not find that Ms. Hadley remarks were unequivocal. The Tribunal noted that it was not entirely clear what Ms. Hadley agreed to in their conversation.

69. The Tribunal noted that it was not part of the claimant's claim that the remark was made because of his having fallen asleep at the wheel whilst driving the car and swerving. However, the Tribunal asked itself whether such an incident may have prompted an outburst from either Ms. Hadley or Ms. Clark concerning the claimant's age.

70. Whilst the Tribunal could see that this may have provoked such a response, it noted that this was not the case advanced by the claimant. He told the Tribunal that it was an unprovoked outburst on Ms. Clark part, prior to their entering the car.

71. He told the Tribunal that Ms. Clark made this remark three times on the way to the car and three times in the car without prompting. The Tribunal noted that he raised a grievance after this remark was alleged to have been said; however, his grievance is entirely silent about this allegation.

72. Having heard the evidence of both the claimant and Ms. Clark, The Tribunal are not satisfied that the alleged remark was made as set out in the claimant's claim.

73. The Claimant did not tell the Tribunal that this remark was in response to his falling asleep at the wheel and on the evidence before it; the Tribunal was unable to resolve the factual dispute in the claimant's favour. Accordingly, this allegation was not made out on the evidence before the Tribunal.

74. As the claimant failed on the evidence to support the primary facts upon which he relied in support of his claim, the Tribunal was not satisfied that the claimant was harassed due to a protected characteristic contrary to section 26 of the Equality Act 2010.

### **Victimization**

75. The claimant claims that he was victimised for doing a protected act, that is by bringing a grievance. The claimant alleged that as a result of this grievance, the respondent sought to terminate his employment or coerce him into accepting a demotion in November 2023.

76. The Tribunal noted that the claimant in his grievance raised discrimination on the grounds of his sex, something which he does not allege in front of this Tribunal, he also states that he mentioned both the comments made by Mr. Hinds and Ms. Clark and that as such he raised the issue of age discrimination orally at the grievance meeting.

77. The Tribunal accepts that such a grievance can give rise to the claimant having carried out a protected act. In his witness statement the claimant alleged that:-” ... *On 20th November 2023, I was invited into an Annual Review Meeting with Wayne and Steve Cornwall. In this meeting, Wayne raised a number of concerns that he claimed he had about my performance some minor or he had never raised previously or were not important or not relevant. The notes of this meeting appear at pages 71 to 75 of the bundle. At the end of this meeting, Wayne presented me with an ultimatum that I could either leave immediately with one month's paid notice until 19th December 2023, or I could start work in the warehouse from 21st November 2023 and take a pay cut. I was to make a decision by the end of that day. There was no support offered, and I believe that I was being moved out of my job because I had raised complaints of age discrimination.*
78. The Tribunal carefully considered the handwritten notes of Mr. Hinds; in his list of questions, he directly asked the claimant to set out why he considered that he was being discriminated against. Mr. Hinds noted that he referred to a colleague Roxy who was due to return from Maternity Leave. He noted that the concerns raised about his performance had occurred after Roxy had attended the office in order to discuss her return. He considered that the timing of the complaint about his performance and Roxy imminent return to work were linked.
79. He did not separately raise age discrimination. The notes of the meeting are signed by him, although the claimant now complains that he could not read Mr. Hinds' writing and felt intimidated into signing them.
80. The Tribunal noted that these issues were investigated by Mr. Paul Hinds as a result of the letter sent by the claimant on 3 December 2023. As part of the investigation, I reviewed the documents between F Hinds and Mr. Ahir and noted that Mr. Ahir in his letter dated 3 December 2023 stated that he provided Mr. Jeremy Hinds...with a copy of his (Mr. Ahir's) typed notes and that he referred to those notes in his grievance meeting. With Jeremy on 25 September 2025.” In paragraph 12 of his witness statement, he set out that he examined both Mr. Ahir and Mr. Jeremy Hinds email accounts to see whether the notes referred to had been sent prior to the grievance meeting, and if so whether they referred to age discrimination. In his witness statement (paragraph 12), Mr. Paul Hinds stated that “... *I did not find any emails from Mr. Ahir attaching his typed notes to Jeremy in advance of the grievance meeting. I sent an email to Mr. Ahir asking him if he had sent an email attaching his typed notes to Jeremy from his personal email address, and if so to provide a copy of the email attaching those notes...* He did not answer the question and did not provide a copy.
81. The Tribunal was satisfied that a grievance was raised, however in respect of discrimination the only issue raised was that of sex discrimination.
82. The claimant's grievance was that the issue of his performance was only raised in respect of Roxy Yacub returning from Maternity leave, and his belief that the issues of his performance was falsely being linked to this.
83. The Tribunal finds that age discrimination was not raised by the claimant as part of his grievance. Insofar as sex discrimination was raised by him, the link between Roxy Yacub's return, and the issues of the claimant's performance were the Tribunal finds entirely coincidental, when considered in the light of the email sent by Paul Hinds of his observations of the claimant's performance.

84. The claimant's case was that he was victimized because of his grievance on the grounds of his age. The Tribunal is not satisfied that this was raised by him. It finds that the first occasion that this was raised was in his email dated 3 December 2023.
85. The Tribunal noted the evidence of Mr. Wayne Tibbles, in his witness statement at paragraph 18, he stated that the decision to terminate Ash's role within the internal audit department was made by him in consultation with Steve Cornwall.
86. In paragraph 10 of Mr. Cornwall's statement, he confirms this. Mr. Cornwall set out that: *"...On 20 November 2023, Wayne Tibbles completed Mr. Ahir's performance review. I also attended the meeting, as I was aware of Mr. Ahir's former grievance and wanted to ensure that what was said by Wayne was clear and fair. Wayne explained to Mr. Ahir that his performance was still not of an acceptable standard and advised him that his employment within his current role in the Internal Audit Department would end due to underperformance. Wayne then explained that Mr. Ahir had two options which were: 10.1 he could leave and would receive one month's payment in lieu of notice; or 10.2 that he would be offered a role in the warehouse, but this would be on a lower salary than his current role."*
87. The Tribunal finds that Mr. Paul Hinds investigated the allegations which were advanced on 3 December 2023, which were different in character in that they alleged. The Tribunal finds, for the first time, the issue of age discrimination.
88. The Tribunal accepted the evidence from the respondent, that the claimant's job was at risk in November 2023, due to what was perceived to be his unsatisfactory performance and that this was the reason why he was offered termination or demotion. Accordingly, it is not satisfied on a balance of probabilities that the reason for the ultimatum to accept a demotion, or be dismissed, was due to the claimant doing a protected act.
89. Accordingly, the claimant's claim in relation to Victimization, contrary to section 27 of the Equality Act 2010, fails.
90. As the Tribunal has been unable to find that the facts alleged to have occurred in relation to the direct discrimination and harassment have not been made out to the required standard of proof the claimant's claim fails and is accordingly dismissed in its entirety.

Approved By Employment Judge Daley  
Dated: 24 June 2025  
JUDGMENT SENT TO THE PARTIES ON  
2 July 2025

FOR THE TRIBUNAL OFFICE