



EMPLOYMENT TRIBUNALS

Claimant: Ms C Maynard

Respondent: Royal Mail Group Ltd

Heard at: London South

On: 9th, 10th, 11th, 12th, 13th, 16th,
17th and 18th December 2024

Before: Employment Judge MJ Reed

Representation

Claimant: In person

Respondent: Mr R Chaudary, Solicitor-Advocate

JUDGMENT

1. The complaints of harassment related to race are not well-founded and are dismissed.
2. The complaints of direct race discrimination are not well-founded and are dismissed.

REASONS

Claims and issues

1. Ms Maynard has brought claims for racial harassment and direct race discrimination. The parties had agreed a list of issues, page 48-53. At the beginning of the hearing, they confirmed that this accurately reflected the issues in the case.
2. There was a bundle of documents agreed between the parties, running to page 432. References to page numbers within these reasons are references to that bundle unless otherwise indicated. A number of additional documents were disclosed in the course of the hearing, which I also considered.
3. I heard evidence from Ms Maynard on her own behalf and on her behalf from Gemini Bradshaw, Paul Benham and Richard Montaque. On behalf of the respondent, I heard evidence from: Cynthia Okine, Anna Pereira, Ian Murphy, Merla O'Kane, Perpetua Fernandez, Asmah Darr, Paul Benham, Glen Rodrigues, Amit Patel, Asif Khan and Anna Walsh. Olawale Banwo was

scheduled to give evidence on the final day of the hearing. Unfortunately, he was involved in a car accident that morning and did not attend. The parties agreed that I should read his statement and give it what weight I found to be appropriate, bearing in mind that he had not given evidence on oath or affirmation and Ms Maynard had not had the opportunity to cross examine him.

4. Both parties made oral and written submissions. Their arguments are addressed as they arise in these reasons.

Findings of fact

5. I considered the oral evidence and the documentary evidence to which I was referred. All findings of fact were made on the civil standard of proof. That means that they were reached on the basis that they are more likely to be true than not.
6. These written reasons are not intended to address every point of evidence or resolve every factual dispute between the parties. I have made the factual findings necessary to resolve the legal disputes before me. Where findings have not been made, or are made in less detail than the evidence presented, that reflects the extent to which those areas were relevant to the issues and the conclusions reached.
7. This is a case involving a significant number of allegations over a long period of time. There were a number of attempts by the Royal Mail managers to investigate, resolve, or otherwise address the difficulties in the workplace. Much of the evidence that I have had to consider was generated in the course of those attempts, which occurred after the originating incidents. I have also needed to make some findings about the credibility of the witnesses arising from their evidence and the way in which evidence was produced to the tribunal. All of this has made it difficult to structure these reasons in simple way.
8. I have taken the approach of addressing the reasons by reference to the list of issues in a primarily chronological manner. However, certain issues, for example, those related to Ms Maynard's claims about overtime, have been addressed separately. I have sought to deal with the evidence arising from later investigations as it arises in respect of the underlying issues, rather than maintaining a strictly chronological approach.
9. It is in the nature of Employment Tribunal litigation that I have focused on resolving the issues in the claims that have been brought to the Tribunal on the basis of the evidence that has been presented. As I emphasised during the hearing, an Employment Tribunal claim is not a vehicle for a comprehensive consideration of an individual's relationship with their colleagues or their employer.
10. There is a danger, however, that in taking this approach a claim may become reduced to a series of allegations, which are apparently disconnected and do not seem to form a coherent whole. This may not do justice to the true character of a claim.
11. It is therefore helpful to set out here, at the beginning of my reasons, what I understood to be the basic nature of Ms Maynard's case. That, at the mail

centre where she works, there is a group of employees, centred around Anna Pereira, who have taken a serious dislike to Ms Maynard based on her racial background. Ms Maynard is black, while Ms Pereira and many other members of the group are of Pakistani heritage. Ms Maynard alleges that this group has subjected her to bullying in a variety of forms, including making fabricated allegations of misconduct / bullying against her. Most of the individual allegations brought in this litigation are incidents of this.

12. In addition, Ms Maynard said that management in Royal Mail failed to properly deal with the bullying she was suffering or to address her complaints about it. She argued that this amounts to further incidents of harassment and / or direct discrimination.
13. Further, Ms Maynard argued that she was discriminated against in respect of the provision of overtime.
14. Royal Mail's position, similarly summarised in broad terms, is that the events relied upon by Ms Maynard either did not occur or did not occur in anything like the way she suggests. In the alternative, they argue that if Ms Maynard was bullied and / or mistreated this behaviour was not connected with race.

Summary of chronology & Background

15. Ms Maynard began work for Royal Mail at the Croydon Mail Centre in November 2001.
16. This case involves allegations of direct race discrimination and racial harassment, beginning in January 2021. Chronologically, the last allegation occurred in May 2023.
17. Ms Maynard made a bullying and harassment complaint on 14th February 2022, page 99. There is significant overlap between that complaint and the issues raised in this claim up to that date. The complaint was investigated by Mr. Olawale Banwo, who was a late shift manager based at another mail centre. Mr Banwo carried out a number of interviews in the course of his investigation. Records of those interviews are a key source of evidence about Ms Maynard's allegations, although a number of the allegations significantly predate that complaint / investigation.
18. Mr Banwo completed his investigation in December 2022 and produced a report. He did not uphold any of Ms Maynard's complaints and was sharply critical of her.
19. One of Ms Maynard's allegations of direct discrimination is that Mr Banwo failed to follow the correct process in dealing with her complaint and was unfair to her.

Evidential points

20. It is useful to set out a few brief conclusions in respect of the overall evidence.

21. I found the claimant to be an honest witness who genuinely believed in the evidence that she gave to the Tribunal. Nonetheless, I found her unreliable in a number of respects. In particular, by the time of the hearing, she had reached a strong conviction that she had been seriously bullied on the basis of race and that she was the victim of a cabal within the Mail Centre. I concluded that this strong conviction has coloured her recollection and interpretation of incidents. This has meant that she was sometimes a poor historian of events and, on a number of occasions, drew inferences from events that I have concluded were wrong.
22. I've also needed to consider how to approach the fact that, in relation to a number of the allegations, Ms Maynard has not provided any detailed account in her witness statement. Where it was possible to do so and I was taken to relevant material, I have allowed Ms Maynard to rely on accounts that she had given elsewhere. In particular, I have relied on the account she gave during Royal Mail's internal investigations.
23. In taking this approach I bore in mind that Ms Maynard is a litigant in person. Employment Tribunal litigation should not be decided on the basis of an assessment of how well the parties have conducted the tasks involved in the litigation process. Although Royal Mail has argued that I should draw adverse inferences from the fact that Ms Maynard has not presented evidence in respect to these allegations I have not found it appropriate to do so, for the reasons set out below.
24. Nonetheless, on occasion, I have needed to seek to resolve allegations for which there is no real evidential basis. My conclusions in relation to these matters this are also set out below.
25. I also explained to Ms Maynard that she would need to put her case to Royal Mail's witnesses in the course of cross-examination (as Mr Chaudary needed to put his client's case to her and her witnesses). This meant that if a witness was the subject of one of her allegations she would need to ask them about it in cross-examination, so that they had a chance to respond. There were, however, a number of allegations in respect of which Ms Maynard did not do this.
26. I have not taken this as a formal withdrawal of those allegations. I have born in mind Ms Maynard's status as a litigant in person and the fact that many of the witnesses had responded to such allegations in their witness statements. This means that I assessed each allegation where the allegation was not put to a witness individually, as set out below.
27. I have also needed to consider that there were a number of occasions when the evidence given by Royal Mail's evidence was unsatisfactory in ways that was not directly related to the subject matter of the claim, but had an impact on my assessment of their credibility. I deal with the main incidents of this here.
28. *Asmah Darr*: At the beginning of her cross-examination, Ms Darr was asked whether she had any tribunal experience. She said words to the effect of "Not that I can remember". She was then asked whether this meant "Maybe yes / maybe no?" Ms Darr then said she had not had experience of the Employment Tribunal. It was then put to Ms Darr that she had been involved in a previous Employment Tribunal case with a colleague who had resigned alleging that he

had left because of Ms Darr's bullying. Ms Darr then accepted that she had given evidence in that case. In the course of re-examination, she said that it was at a hearing six months ago that had been conducted online. She said that "It was not a tribunal like this, it was very different." She said that she had forgotten that she had been involved in a case before.

29. I did not find Ms Darr's explanation a credible one. The question "Do you have any tribunal experience?" is a simple and straightforward one. It is not plausible that someone who had given evidence in a case concerning allegations directly concerning them only six months ago would not recall that or fail to appreciate its relevance to such a question. The fact that this hearing was conducted in person, while the previous hearing was conducted over video did not, in my view, make any difference to this. I have therefore concluded that Ms Darr's initial answer was a dishonest one. This had implications for my assessment of her evidence. I reminded myself, however, that the reliability of a witness is not a simple matter. Witnesses are not either honest or dishonest and a witness may tell the truth in relation to part of their evidence, while being dishonest about another part.
30. For the avoidance of any confusion, I did not draw any inference from the mere fact that Ms Darr was involved in another Employment Tribunal claim or that there may have been allegations of bullying against her in other proceedings. I have heard no evidence in relation to those matters and know nothing about the circumstances that might have given rise to the other claim.
31. *Anna Pereira*: Shortly after her cross-examination commenced Ms Pereira said that she had been taking notes of relevant events beginning in 2020 and then lasting until February or possibly March 2021 when she had moved workplace. She said that she had been keeping notes on her computer at home. None of these notes had been disclosed to Ms Maynard, and the fact that Ms Pereira had been taking notes was not mentioned in her witness statement. The Tribunal broke early for lunch in order that these notes could be disclosed. Before the adjournment I explained the duty to disclose to Ms Pereira. After the lunch adjournment three pages of notes were disclosed. At the same time, an audio recording was disclosed.
32. Shortly after cross-examination resumed. Ms Pereira said that the notes produced had been typed up from notes on her phone. Despite the duty to disclose having been discussed in some detail prior to the lunch adjournment, Ms Pereira had said nothing about these notes prior to cross-examination. There was then a further adjournment while those notes were provided.
33. This did not lead me to conclude that Ms Pereira was seeking to be dishonest or misleading in relation to her disclosure. If that had been her intent, there would have been no reason to disclose the notes that she did. But it did suggest an inappropriate casualness in relation to her evidence. This had an impact on my assessment of her credibility.
34. A key part of Ms Pereira's evidence related to the meeting that took place in January 2021. In particular, there was dispute over whether Ms Pereira made a comment to the effect of 'some people have no brains' in reference to Ms Maynard. In her evidence, Ms Pereira maintained the position that, although she had made a remark, it was not a reference to Ms Maynard. This incident is dealt with in detail below. It is sufficient here to record that I concluded that Ms

Pereira was referring to Ms Maynard when she made that remark and found that she had been disingenuous in her evidence to me. As with Ms Darr, however, I bore in mind that a witness who answers dishonestly in relation to one matter is not necessarily being untruthful in other parts of their evidence.

35. *Merla O'Kane*: Although she had sworn to the truth and accuracy of her witness statement (with minor amendments) during her oral evidence Ms O'Kane began to resile from significant parts of her evidence. Most notably paragraph 10 read as follows, referring to Ms Maynard's behaviour:

I'm not afraid to admit that her behaviour has been so frightening that myself and other staff members typically turn on our phones and leave them on record in our pockets when we go to the bathroom or go anywhere on our own in case she approaches us, so that we at least have proof of what she says and can report it to management if we decide to. Although I have not reported anything yet because I am just too scared of her and the repercussions of being further targeted by her when she finds out.

36. In her oral evidence, Ms O'Kane said that this was not true. She did not make any sort of recording at work and was not aware that other people were doing so. I noted that this portion of Ms O'Kane's evidence was notable and unusual. It was not the sort of statement that might be expected to find its way into a statement as a result of miscommunication between a witness and the drafter of the statement. Ms O'Kane suggested that the confusion might have occurred because other colleagues were making statements at the same time. Given the nature of this evidence that does not seem to me a particularly plausible explanation. In any event it does not explain how Ms O'Kane came to swear to the truth of such statement.
37. At the very least, it seemed to me, Ms O'Kane had been inappropriately casual about the sworn evidence she had given to the Tribunal and this had an impact on my assessment of her credibility, although given my other findings this had a limited impact on the outcome of the case for the reasons set out below.

January 2021: Asmar Darr incidents

38. Issue 2.1.1.a: The claim in the list of issues is that Asmah Darr described Ms Maynard as a nutter, an ugly bitch, mentally ill, grossly ugly and suggested that she had no friends and that nobody liked her.
39. This allegation is not dealt with in any detail in Ms Maynard's witness statement. In cross-examination, it was suggested to Ms Maynard that the reason for this was that the incident did not occur. It is convenient to deal with this point here, since a similar argument was made in respect of a number of the allegations. I was invited to draw an inference from the fact that this allegation was not detailed in Ms Maynard's witness statement that a) the incident did not happen and b) that Ms Maynard's evidence in general was unreliable.
40. I did not consider that it is appropriate to draw either of these inferences. I was conscious of the fact that Ms Maynard is a litigant in person and it was apparent during the hearing that she has sometimes struggled with the litigation process. There may be many reasons that a party, especially a litigant in person, may

not provide detailed evidence in respect of a particular allegation. It would be unsound to infer in these circumstance that the most likely reason that Ms Maynard did not provide more detail in her witness statement was that she did not genuinely believe in the allegation.

41. In the course of cross-examination, Ms Maynard said that she had kept a diary of relevant events and later formed entries from that diary into a document found at page 86A-96. This document was produced as part of her preparation to meet Mr Banwo during his investigation in June 2022. She sought to rely on this as her account of the incident. That document describes the incident in relation to Ms Darr as follows:

In January 2021, Ms Darr was heard by a line manager at the time, Mr Mike Aikeman, calling me a barrage of despicable and unacceptable names in my work area. This was in defence to her good friend, Mrs Anna Pereira, who was the main perpetrator to this case. I spoke to Paul Benham, who is my union representative who also works for Royal Mail. (Please speak to Mr Benham as he will be able to elaborate more to the conversation he had with Mr Aikman to what he had actually witnessed).

42. Asma Darr denies the allegation. She says that she has never spoken to Ms Maynard, or anyone else, in this manner at all. Her evidence was that she and Ms Maynard have always had a difficult relationship because she finds Ms Maynard rude and intimidating.
43. On 14th February 2022, Ms Maynard lodged a bullying and harassment complaint, page 99. That complaint begins by giving an account of the incident with Ms Pereira dealt with below. Although it is not entirely clear, the complaint suggests that Ms Darr's behaviour followed on from that incident and arose because Ms Darr was a friend of Ms Pereira.
44. Ms Darr was interviewed as part of Mr Banwo's investigation. A note of her meeting with Mr Banwo was produced, p203-208. She denied the allegations against her. She accused Ms Maynard of using derogatory language towards her.
45. As set out above, I have not found either Ms Maynard or Ms Darr wholly reliable witnesses. I have, however, found that Ms Maynard has sought to be honest with the Tribunal. Although on occasion her sense of grievance has led her to exaggerate or to draw unwarranted inferences, I do not find it likely that she would have fabricated comments of this nature out of whole cloth.
46. It seems to me that the most likely scenario is that Ms Darr did speak in disparaging terms of Ms Maynard along the lines that Ms Maynard suggests. This behaviour probably began in January 2021 following on from the incidents between Ms Maynard and Ms Pereira. It is likely that Ms Darr's action arose, at least in part, in response to her perception that Ms Maynard had behaved unreasonably towards Ms Pereira.
47. The lack of detail in Ms Maynard's evidence, however, means that I am unable to reach any conclusions in relation to the precise dates on which this occurred, the circumstances of the comments or much of the surrounding context. There was simply no evidence before me to fill in those blanks.

December 2020 -January 2021: Ms Pereira Incident

48. Issue 2.1.1.b: The claim in the list of issues is that Ms Pereira sought to instruct the claimant about her work and told her to shut up when she was challenged.
49. Issue 2.1.1.c: The claim in the list of issues is that in January 2021 Ms Pereira called the claimant 'it', a 'thing', a 'mentally ill person' and 'a nothing' – as well as twirling her finger close to her head so as to suggest Ms Pereira was mad.
50. In her evidence, Ms Maynard says that in January 2021 she was doing her work when Ms Pereira came into her area and suggested that she should be carrying out a different task. Ms Maynard said that she objected because, in her view, she was carrying out the correct work. In any event, she felt that Ms Pereira should not be instructing her, because she was not a manager and did not have the authority to do so.
51. Ms Pereira said in her witness statement that she did not specifically recall this incident. She said, however, that it was not uncommon for her to relay manager's instructions to Ms Maynard. This was because Ms Maynard was on a slightly different shift to some other colleagues and so would often arrive after a manager had given instructions about the work to be prioritised. Ms Pereira said that it was common for her to relay such instructions.
52. Ms Pereira suggests that it was probably an incident of this type that Ms Maynard is referring to. Ms Pereira suggests that she had probably been told whether inbound, inward, or outward mail should be prioritised and that she would have been relaying that instruction to Ms Maynard.
53. The documents from Mr Banwo's investigation provide a more detailed version of these accounts. He conducted an interview with Ms Pereira on 22nd August 2022. A note of that meeting has been provided, page 222-227. I accept that those notes are a broadly accurately account of that meeting.
54. Ms Pereira describes an incident she says occurred in December 2020, rather than January 2021. She said that she had been told by a manager that 'flats' (referring to a particular type of mail) should be prioritised. She said that she then noticed that Ms Maynard was bringing letters rather than flats to sort. She therefore went over to Ms Maynard and said, "We have a lot of flats there, why are you sorting letters? Our priority should be the flats." Ms Pereira told Mr Banwo that Ms Maynard responded by shouting at her, "Are you my manager?" and continued to shout and scream at her. Ms Pereira then walked away.
55. On the 15th of February 2022, Ms Maynard had lodged a bullying and harassment complaint form (H1), page 99. That describes an incident in '2020-2021 December'. The description of that event is almost identical to Ms Maynard's allegation here. Taking all of this together I have concluded that the first part of these incidents occurred in December 2020, rather than January 2021.
56. At one stage in her evidence, Ms Maynard suggested that she might have completed an earlier bullying and harassment complaint sometime in 2021. However, she went on to say that she thought that, although this had been suggested as a possibility, ultimately she decided to try and resolve these

issues informally and believed that there would be some kind of mediation process. She therefore did not complete an earlier H1 form. Royal Mail argued that I should draw an inference from the failure on Ms Maynard's part to present a formal complaint earlier that this allegation was untrue. I did not do so, because I accept Ms Maynard's evidence that she was seeking to resolve the situation informally.

57. In January 2021 there was a meeting to discuss this incident. This was initiated by Ms Sonal Jiwan, who was the acting manager at this time. It was attended by Ms Maynard, Ms Pereira, Junita Baxter and a Trade Union Representative, Zia.
58. Ms Pereira accepted in her evidence that during this meeting she made a remark to the effect of 'some people have no brains' to Zia. In her evidence, she said that this was part of a separate and unrelated conversation she was having with Zia. She said that Zia had asked her a question and that she was discussing how people should work together in the workplace to solve problems. She said she was giving an example of how someone should resolve an issue over a piece of equipment being an obstruction within the workplace. She asked Zia whether she would address that sort of issue with a colleague or report it to management. She made it clear that her view was that these sorts of issues should be worked out between colleagues and management should not need to be involved. 'But,' she went on to say, 'some people have no brains'.
59. The suggestion that this remark was entirely unconnected to Ms Maynard was wholly unconvincing. It is quite clear that Ms Pereira's view at this meeting was that Ms Maynard was being unreasonable and that she had done nothing wrong. That is plainly the relevance of her suggestion to Zia that many workplace matters should be sorted out between colleagues. In that context, the remark "people have no brains" could only sensibly be taken to be a criticism of Ms Maynard as one of those people, albeit one cloaked in an indirect manner. It is inherently unlikely that, in the course of a meeting of this nature Ms Pereira and Zia would have a wholly unrelated conversation in the way she suggested, using this language.
60. In my view, Ms Pereira's unwillingness to accept that point and continued insistence that the remark had no relevance to Ms Maynard demonstrated a refusal to be frank in her evidence. It has caused me to treat the rest of her evidence with some caution.
61. Taking all of this together, I reach the following conclusions: First, Ms Pereira had genuinely been seeking to pass on a managerial instruction to Ms Maynard when she initially spoke to Ms Maynard. She was not seeking to act as manager or to bully Ms Maynard. She did, however, speak in a more brusque way than she suggested to me in her evidence. The wording she gave in her account to Mr Banwo suggests this. It was less than tactful, particularly taking into account the fact that Ms Pereira accepted that she knew that Ms Maynard sometimes objected to being given instructions by colleagues rather than managers. That conclusion is also supported by the "people have no brains", which demonstrated that Ms Pereira was prepared to speak quite bluntly.
62. I do not accept, however, that Ms Pereira spoke in quite the terms that Ms Maynard has suggested, at least initially. I have concluded that the most likely

scenario is that Ms Pereira sought to pass on the instruction, albeit in quite a direct and blunt way. Ms Maynard objected, and the matter descended into an argument from there. Both Ms Maynard and Ms Pereira suggest that there was shouting. I concluded that this was true of them both. I do not think either has a very specific recollection of precisely what was said or has been entirely frank with me in their evidence. Given this it is difficult to be certain what was said by either party to the argument. On the balance of probabilities, I conclude that both Ms Maynard and Ms Pereira shouted at each other rudely in the course of an acrimonious exchange. In the course of that argument Ms Pereira did tell Ms Maynard to 'shut up'.

63. So far as the January meeting is concerned, I find that Ms Pereira gave the strong impression that she believed that Ms Maynard was being foolish and that did make the remark "people have no brains", intending to refer to Ms Maynard. She also did make a gesture intended to communicate that Ms Maynard was being irrational. I find, however, that this was not intended as a serious suggestion that Ms Maynard had a psychiatric illness or a mental health condition. Rather Ms Pereira was forcibly underling her view that Ms Maynard was being unreasonable in relation to this incident.

64. I do not, however, accept that Ms Pereira described Ms Maynard as 'it', as a 'thing', a 'mentally ill person' or 'a nothing' on this occasion. None of the accounts I have been given of the January meeting suggest that matters escalated to anything like that degree. Further, if they had done so, Ms Maynard's complaints following that meeting – in particularly in relation to Mr Banwo's investigation – would have most like focused on those remarks, rather than the more indirect 'some people have no brains' comment, which is a comparably much milder statement.

30th May 2021 and 16th June 2021: Incidents with Ms Darr

65. Issue 2.1.1.d: The claim in the list of issues is that on 30th May 2021 Ms Darr when walking past her in the workplace called Ms Maynard a cow.

66. Issue 2.1.1.e: The claim in the list of issues is that on 16th June 2021, when exiting a lift, Ms Darr called Ms Maynard a 'nutter' and a 'psychopath'.

67. Ms Maynard did not address this allegation in her witness statement. In cross examination, she said that Ms Darr 'had a tendency to always abuse me'. She said she could not be sure about the dates, but that Ms Darr had 'a tendency to call me filthy names'.

68. Neither allegation was put to Ms Darr in cross-examination. In her witness statement Ms Darr said that she did not recall any such incident and would not have described Ms Maynard in those terms.

69. On balance, I conclude that Ms Maynard has not produced sufficient evidence to establish that these incidents occurred. Although, for the reasons set out elsewhere in these reasons I have not always found Ms Darr a reliable witness, this does not mean that an unparticularised statement that she engages in abuse against the claimant is sufficient to make out a specific allegation, especially when she was not given the opportunity to comment on that allegation during cross-examination.

19th June 2021: Incident with Ms Pereira

70. Issue 2.1.1.f (harassment): The claim in the list of issues is that on the 19th June 2021 Ms Pereira made a false allegation to Mr Rodrigues that Ms Maynard had pushed her chair the previous day. Mr Rodrigues then challenged the claimant over this.
71. Issue 2.2.1.a (Direct discrimination): Ms Maynard argues in the alternative that the events summarised above were direct discrimination.
72. Issue 2.2.2 b (Direct discrimination): The claim in the list of issues is that Mr Rodrigues dealt with Ms Pereira's allegation that Ms Maynard had pushed her chair but did not deal with Ms Maynard's allegation that Ms Pereira had made a false allegation against her.
73. Although the list of issues refers to 19th of June 2021, I have concluded that these allegations in fact relate to an earlier date. It is clear from Mr Rodrigues's notes that he met with Ms Maynard and then with both Ms Maynard and Ms Rodrigues about this incident on 8th of June, p266. Therefore the event itself must have occurred somewhat earlier. In my view, the date in the contemporaneous note is more likely to be accurate than subsequent recollections.
74. Ms Pereira accepted that she had complained about Ms Maynard hitting her chair to Mr Rodrigues but said that it was the truth. During her cross-examination, it was suggested to her that she could not have seen who hit her chair and she agreed with this. But she went onto say that Ms Maynard was the only person walking behind her at the time. I accepted that Ms Pereira honestly believed that Ms Maynard had deliberately struck her chair.
75. Mr Rodrigues also accepted that the allegation had been made. He said that he had been asked to deal with it by the Shift Manager, James Doyle. He said that he had called both Ms Pereira and Ms Maynard into his office, in an attempt to resolve the situation informally in an amicable way. He said that Ms Pereira apologised, saying 'If I have done something wrong, I apologise'. He said that Ms Maynard did not reject this apology and therefore, so far as he was concerned, the matter had been resolved.
76. Mr Rodrigues had produced a note of his meetings, page 266. I accepted that that is a broadly accurate record of the meeting. It records that Mr Rodrigues began by having a discussion with Ms Maynard. She expressed the view that he was showing favouritism to Ms Pereira, because as soon as Ms Pereira complained he was taking action, while he had ignored her previous complaints. Mr Rodrigues replied that, he had understood that an apology had been given, including a written apology, and therefore 'everything was okay'.
77. Mr Rodrigues then met with both Ms Pereira and Ms Maynard together and they discussed the incident. The note records that, in respect of Ms Pereira's allegation, Ms Maynard responded 'prove it'. There was then a discussion of their historically poor relationship. In particular Ms Maynard said that Ms Pereira had described Ms Maynard as having mental issues. The note records Ms Pereira becoming emotional and apologising.

78. Mr Rodrigues then noted that he told Ms Maynard that he would speak to Mr Zia, who was said to have witnessed the incident and come back to her. Ms Maynard is recording as saying that if Mr Zia denied her account she was prepared to take the matter further.
79. During his cross-examination, Mr. Rodrigues described Ms Pereira as emotional and upset during the meeting. He said that he recalled seeing tears in her eyes. He said that Ms Maynard did not come across as upset. He described her as silent and said that she did not react to the apology.
80. It was suggested to Mr Rodrigues that Mr Doyle had instructed him to carry out a formal investigation and that he failed to do so. I do not accept that this was the case. If Mr Rodrigues had received such an instruction by Mr Doyle, there is no reason that he would not have carried it out. At the same time if Mr Doyle had given such an instruction and it had not been carried out, it is likely that he would have taken action to follow up. The fact that Mr. Rodrigues had taken a written note of the meeting suggests that he was treating the incident and his involvement with some degree of formality. This suggests a consciousness that he was acting on the instructions of a more senior manager, rather than carrying out a routine incident of staff management on his own initiative. Given that consciousness, it is unlikely that he would have failed to proceed in a more formal manner if that had been the instruction he was given.
81. Mr Rodrigues was interviewed by Mr Banwo as part of the grievance investigation on 23rd September 2022. A note of that interview has been produced and I accept that it is a broadly accurate account of the meeting, p261-265. At that interview Mr Rodrigues agreed that he had been asked by Mr Doyle to look into the incident. He described this as Mr Doyle asking him 'to speak to Ms Maynard to find out what was going on'. He said that he did not think he had reacting to a complaint made by anyone else, but rather following Mr Doyle's instruction.
82. Taking all of this into account, it is far more likely that Mr. Doyle told Mr. Rodrigues to look into the matter and seek to resolve it using his best judgment. That would be a natural instruction for Mr Doyle to give. It is also congruent with Mr Rodrigues' evidence, his account to Mr Banwo and with the contemporaneous notes of what took place.
83. Although the note indicates that Mr Rodrigues was going to speak to Mr Zia and that Ms Maynard had said that she was prepared to take the matter further, no further action appears to have been taken by either of them until Ms Maynard's grievance in February 2022. In his evidence, Mr Rodrigues said that he had not interviewed any witnesses regarding the matter and, following the meeting had regarded it as closed.
84. On balance, it seemed to me most likely that, at the time of the meeting, Mr Rodrigues did intend to make some further enquiries but then did not do so. I did not conclude that this was a deliberate omission on his part. There is no obvious reason why he would have deliberately failed to speak to Mr Zia having said that he would. He was not questioned about this element of the meeting in cross-examination. Nor was he questioned about not speaking to Mr Zia. I have concluded that Mr Rodrigues simply regarded the matter as largely closed following the meeting and, in particular, because Ms Pereira had apologised.

Although he originally intended to carry out some follow up, he then lost track of and ultimately forgot that part of the meeting. Ms Maynard did not take any action to remind him or to follow up about his further enquiry.

85. In relation to this claim, it seemed to me that Ms Maynard was making essentially two criticisms of Mr. Rodrigues' conduct in relation to this incident. First, that he was not treating it as seriously as he should have done, bearing in mind both Mr. Doyle's instruction and the nature of the incident. Second, that he was favouring Ms Pereira over her.
86. As dealt with above, I found that Mr Doyle had not instructed Mr Rodrigues to carry out a formal investigation. In that context, his behaviour did not seem to me to be either unusual or unreasonable. The allegations of, respectively, pushing a colleague's chair and alleging that a chair had been pushed when it had not been, are not ones that are so inherently serious that a failure to deal with them formally calls for explanation. It would be natural for a manager in Mr Rodrigues' situation to try to deal with them informally. I accept Mr Rodrigues' evidence that he believed matters had been resolved by Ms Pereira's apology and therefore regarded the matter as closed.
87. In this context, the terminology in the list of issues, that refers Mr Rodrigues 'challenging' Ms Maynard and then 'dealing with' Ms Pereira's allegation while not 'dealing with' Ms Maynard's allegation does not at all reflect how Mr Rodrigues approached the matter. He was not proceeding with anything like that level of formality or structure – as he might have done had he been carrying out a formal investigation. He did not view himself as dealing with any particular allegation but rather aiming to resolve the conflict between two colleagues. Having concluded that he had been able to patch things up between them following Ms Pereira's apology, he regarded the matter as closed.

23rd September 2021

88. Issue 2.1.1.g: The claim in the list of issues is that on 23 September 2021, Ms Pereira falsely accused Ms Maynard her of hitting her in a work area.
89. Ms Maynard's evidence was that Ms Pereira had been moved to another area of the workplace. She said that Ms Pereira, although she had no need to do so, had walked into Ms Maynard's area. She said that she came and stood by Ms Maynard's side and then shouted that Ms Maynard had hit her.
90. Ms Maynard said that as a result of this, she went to Asif Khan to tell him that she had not struck Ms Pereira.
91. Ms Pereira's evidence was that she did not make a complaint of this nature. She said that on this date Ms Maynard had struck her by sticking her elbow out and hitting her on her right arm. Ms Pereira said she asked "Why did you hit me?", but Ms Maynard walked on without responding. Ms Pereira said that she ignored the incident and did not make any report. She said, however, that she was aware that Ms Maynard had spoken to Asif Khan to deny having hit Ms Pereira.
92. In her meeting with Mr Banwo on the 22nd of August 2022, Ms Pereira gave a similar account, p226-227. In addition, she said that since that date she would

routinely 'put her camera on, even when I go to the toilet, I leave the camera on'. In her evidence, Ms Pereira said that she would make such recordings as a matter of routine and that the same was true of many other colleagues. She said that she did so when she went for a break, to use the toilet facilities, or if she was going to another area of the workplace.

93. I accept Ms Pereira's evidence that she did not make a formal complaint of any kind against Ms Maynard or an informal complaint to management. There is no evidence of such a complaint. It seems to me that, given the way that managers dealt with the other incidents I have heard evidence about, if such a complaint had been made it would have resulted in some form of action.

94. Essentially, it seems to me that what had happened was that there was some inadvertent contact between Ms Maynard and Ms Pereira. Given that at this stage there was such a mutual dislike, an incident that might otherwise have gone unremarked was felt by both of them to be more serious. This resulted in Ms Pereira speaking out at the time when she might not otherwise have done so, and to Ms Maynard feeling that she had to deny having deliberately struck Ms Pereira.

19th October 2021

95. Issue 2.1.1.h (harassment): The claim in the list of issues is that on 19th October 2021 Mr Rodrigues said to Ms Maynard that the way that she looked at him was 'not normal'.

96. Ms Maynard did not deal with this incident in detail in her witness statement.

97. In his evidence, Mr Rodrigues accepted that something like this incident had occurred but in an innocent context. He said that he had been passing by Ms Maynard's work area when he noticed that she was looking at him, rather than carrying on with her work. It appeared to him that she was trying to catch his eye. He therefore went over and asked if she was okay. She asked him 'Why do you ask?' and he replied 'You don't normally look at me like that?'

98. That evidence is consistent with the statement that Mr Rodrigues gave to Mr Banwo during his investigation, page 264.

99. I accepted Mr. Rodrigues's account of this incident. His evidence on this point has been consistent and seems to me to be inherently plausible. I have concluded that this is an occasion on which Ms Maynard's strong sense of grievance has led to her placing a strongly negative connotation on an event that, in reality, was innocuous.

17th December 2021

100. Issue 2.1.1.i (harassment): The claim in the list of issues is that on 17th December 2021 Ms Darr falsely accused Ms Maynard of intimidating her in front of Mr Patel, an Operations Manager at the Croydon Mail Centre and other colleagues.

101. More detail of this allegation is given in Ms Maynard's investigation statement, p86A. There she says that she was walking with a friend, Ms Bradshaw, down to Ms Bradshaw's section. This meant that they walked by where Ms Darr was working. At which point Ms Darr called out for Mr Patel, saying "Amit, Amit, they are intimidating me." Ms Maynard recounts that he then spoke to her and Ms Bradshaw briefly, because he could not see that they had done anything wrong.
102. Ms Gemini Bradshaw was interviewed by Mr Banwo as part of the Grievance Investigation on 31st October 2022. A note of that meeting has been produced, p300-303. She told Mr Banwo that she was a colleague and friend of Ms Maynard. She said that she had asked Ms Maynard to come with her, because she had something to give her. Ms Maynard had secured permission from Amrit Patel and accompanied her. They had been walking together when, as they got closer to where Ms Darr was working, Ms Darr screamed, extremely loudly. Ms Darr then shouted "Amit, Amit, they are intimidating me". Mr Patel then turned around and asked Ms Maynard and Ms Bradshaw what had happened. Ms Bradshaw replied that they did not know, since they had just been minding their own business. Mr Patel said that he didn't see anything but told them to make a note in case anything occurred in the future. Ms Bradshaw also said that, when they were walking off, Ms Darr muttered 'Nutter' under her breath.
103. Ms Bradshaw denied having done anything to intimidate Ms Darr or having said anything derogatory towards her in the past. She said that Ms Darr did look at her in what she interpreted as an intimidating way.
104. Mr Patel was also interviewed by Mr Banwo as part of the Grievance Investigation on 12th October 2022. A note of that meeting has been produced, p289-290. I accepted that it is a broadly accurate account of the interview. There he describes what appears to be the same incident. He says that Ms Darr shouted to get someone's attention and that he then turned around. He says that he thinks that Ms Maynard and Ms Bradshaw were standing in the walkway about 10 metres away. He says that he was aware that Ms Maynard and Ms Darr had had previous issues, and he did not know why Ms Maynard and Ms Bradshaw were in his area. He said that he thinks something might have happened, and that Ms Darr said either they were swearing or said something and then walked off.
105. In her witness statement, Ms Darr said that she had no recollection of this incident. She said that she did often feel intimidated by Ms Maynard at work and did her best to avoid her.
106. On balance, I accept that Ms Darr did cry out when she saw Ms Maynard and Ms Bradshaw. I find that she did wish to give the impression that they were misbehaving. At this stage the relationship between Ms Darr and Ms Maynard was, on any account, a poor one. I have also concluded that Ms Darr had used disparaging and offensive language towards Ms Maynard. I accept Ms Maynard's account that she had done nothing to either provoke or intimidate Ms Darr on this occasion.

107. Issue 2.1.1.j (harassment): The claim in the list of issues is that Ms Darr filmed the claimant using her phone and shouted, "Look at her."
108. Issue 2.1.1.k (harassment): Further, Ms Maynard alleges that when she complained to Mr Rodrigues about this incident, he replied that he would deal with this in his own time, not hers.
109. More detail of this allegation is given in Ms Maynard's statement of 6th April 2022, p86B. There she wrote that when she was walking in the workplace, Ms Darr walked towards her, with her phone out, recording her. She writes that Ms Darr said in a loud voice 'Look at her'. Ms Maynard suggests that Ms Darr was seeking to give the impression that she had done something to Ms Darr.
110. Ms Maynard gave a similar account in her 30th June 2022 interview with Mr Banwo as part of the grievance investigation, p114-116.
111. In her witness statement, Ms Darr denied this allegation. She said that she never filmed Ms Maynard.
112. On balance, I accept Ms Maynard's evidence that Mr Darr did film her in the workplace.
113. In his witness statement, Mr Rodrigues said he recalled Ms Maynard approaching him and saying that Ms Darr had filmed her. He says that he went over to Ms Darr at the time and asked her directly if she had filmed Ms Maynard, which she denied. He says that Ms Darr then showed him her phone, which did not have anything on it to suggest that Ms Maynard had been filmed.
114. During his cross-examination, Mr Rodrigues maintained this account. He accepted that he had not come back to Ms Maynard to let her know what had happened or taken any further action. He said that if he had concluded that Ms Darr had been filming Ms Maynard, he would have taken the matter further.
115. I accept Mr Rodrigues's account of this incident. The particularly important element is that all of this occurred very shortly before Christmas 2021. This is, as a number of witnesses have discussed, an especially busy time for the Royal Mail given the importance of delivering mail before 25th December. In that context, it seems to me plausible that Mr Rodrigues would have dealt with this matter in the brisk and informal way that he suggests.
116. It also seems to me likely that he probably did say something to Ms Maynard about the matter being dealt with on his timescale, rather than hers. Although Mr Rodrigues had no recollection of this, I do not believe that it is likely that Ms Maynard would have fabricated this allegation. But this would have been in the context of that busy and stressful Christmas period. In that context, the point that the complaint could not be dealt with immediately was a reasonable one for Mr Rodrigues to make.

3rd January 2022

117. Issue 2.1.1.l (harassment): the claim in the list of issues is that on 3rd of January 2022, Ms Darr stared at Ms Maynard saying nothing, then proceeded to accuse the claimant of scaring her.

118. This allegation was not addressed in Ms Maynard's witness statement.
119. More detail of this allegation is set out in Ms Maynard's investigation statement, page 86B. There, Ms Maynard said that she noticed Ms Darr staring in her direction for a length of time for no apparent reason. She then screamed and looked around to see if it brought other people's attention towards her. When people looked, she said, "She scared me," referring to Ms Maynard.
120. In her witness statement, Ms Darr denies doing this at any point. The allegation was not put to her in cross-examination, but I accept that Ms Darr's position in respect of this issue is clear.
121. On balance, I accept Ms Maynard's account of the incident. I accept that Ms Darr was again seeking to give the impression that Ms Maynard was behaving poorly towards her. This is on the basis that I have found Ms Maynard, in general, a more reliable witness than Ms Darr.

15th August 2022

122. Issue 2.1.1.m (harassment): the claim in the list of issues is that on 15th August 2022 Ms Darr videoed Ms Maynard in the canteen.
123. Ms Maynard reported this incident to Mr Banwo in writing the next day, page 191. She wrote that she came into the canteen on a break when Ms Darr was also there. She alleges that Ms Darr used her phone to video her. She writes that she confronted Ms Darr, asking her whether she was making a recording; saying that she had no right to do so and that she would be making a report. She alleges that Ms Darr reacted by laughing in her face and, as Ms Maynard left, turning her phone off.
124. Ms Darr denied this allegation, saying that she had never filmed Ms Maynard.
125. On balance, I accept Ms Maynard's account of the incident. I have found her, in general, to be a more reliable witness than Ms Darr.

6th January, 10th June & 16th June 2022

126. Issue 2.2.1.d (direct discrimination): The claim in the list of issues is that on these days Ms Pereira came into Ms Maynard's work area, despite having been instructed not to do so. This was not addressed by Asif Khan on 6th January 2022 or Mr Rodrigues on 10th or 16th June 2022.
127. In her witness statement, Ms Maynard says that on 6th January 2022 Ms Pereira came into Ms Maynard's work area, despite having been told not to by Mr Rodrigues.
128. In her witness statement, Ms Pereira said that she had not been told to stay away from Ms Maynard's work station, although given the issues between them she did her best to avoid her. She said that she around this time been assigned a new role helping with dispatch, which means she did need to go

into the area where Ms Maynard worked from time to time in order to collect mail. At the start of her evidence, however, she corrected this part of her statement, saying that she had been told by Mr Rodrigues to stay away from Ms Maynard's work station.

129. In the course of cross-examination, Ms Maynard accepted that Ms Pereira had been placed in that new role. She also explained that, when she spoke about a work area, she was referring to the space within the depot, approximately half the size of the Tribunal room, where she and about other five people worked. She said that Ms Pereira stood a few feet away from her. She was not therefore suggesting that Ms Pereira had intruded onto her personal workspace. She did not suggest that Ms Pereira had done or said anything directly to her, but felt she was deliberately placing herself in Ms Maynard's vicinity in order to harass Ms Maynard. Ms Maynard accepted that she was not aware of Ms Pereira coming into her area other than on the alleged dates. I note that this means that this occurred on a very limited number of occasions and I do not find that the pattern suggests any attempt to harass Ms Maynard, given the nature of Ms Pereira's role.

130. Ms Maynard raised the issue of Ms Pereira's behaviour area with Mr Doyle in writing on the 21st January 2022, page 98. That letter also suggests that she had spoken to him on the 7th January. The letter does not, however, refer to Ms Pereira coming into Ms Maynard's work area. The vast majority of that letter focuses on Ms Darr.

131. Neither Mr Khan or Mr Rodrigues addressed this allegation in their witness statements and were not asked about it during cross-examination.

132. I accept that Ms Pereira did, on these occasions, come into the general area that Ms Maynard worked in and that Ms Maynard genuinely believed that she was doing so in an attempt to bully her.

133. The evidence also does not establish that either Mr Khan or Mr Rodrigues had been told about these incidents.

18th October 2022

134. Issue 2.1.1.n (harassment): The claim in the list of issues is that on 18th October 2022 Ms Maynard was advised by a colleague, Richard Montaque, that a manager, Mr Patel had tried to incite him to give false testimony that Ms Maynard had made racist and abusive comment to Ms Pereira.

135. Both Mr Montaque and Mr Patel gave evidence to the Tribunal. Both agreed that they had had a number of conversations about Ms Maynard.

136. In his witness statement Mr Montaque said he was initially approached by Mr Patel when they were both having coffee. Mr Patel suggested that Mr Montaque would be required to give evidence about Ms Maynard making abusive statements about Ms Okine. Mr Montaque said Mr Patel explained this by saying that he had been interviewed that day. This indicates that the conversation took place on or around the 12th October 2022, since that was the date of Mr Patel's meeting with Mr Banwo, see the notes of that meeting, page 288-290. In that meeting Mr Patel refers to an incident that he says occurred

between Ms Maynard and Ms Okine. He suggests that Mr Montaque observed Ms Maynard walk behind Ms Okine, imitating a monkey in order to mock her. It appears that this is the incident Mr Patel was referring to when he spoke to Mr Montaque.

137. Mr Montaque said that he replied that he did not know what Mr Patel was talking about and that he had no recollection of the incident.

138. Mr Montaque's statement goes on to say that he later had another conversation with Mr Patel, who asked him whether he had 'had my meeting'. He said that he was non-committal in response.

139. Mr Montaque's statement then goes on to say that there was a third meeting in which Mr Patel gave the impression that he wanted Mr Montaque to give evidence against Ms Maynard. The statements says that he felt 'pressured and coerced' to make an adverse statement against Ms Maynard. He said he had the impression that there was co-ordination against her.

140. Mr Montaque was interviewed by Mr Banwo on 28th October 2022. The notes of that meeting were produced, page 298-299. In that meeting, Mr Banwo asks about an incident in which Ms Maynard mocked Ms Okine by imitating her walk in some way. Mr Montaque replied: 'If I could get the location, probably I could remember, but I really can't remember now'. I note that this was an odd reply in the circumstances. If he did not recall such an incident I would expect a more direct answer. In another context, a reference to a location would be natural, but in these circumstances its relevance is not clear.

141. Mr Patel denied attempting to coerce or pressure Mr Montaque to give adverse testimony about Ms Maynard. His evidence was that he did not recall any conversation with Mr Montaque, but he was confident he would not have done something so appalling.

142. I accept that Mr. Patel did not seek to coerce or pressure Mr. Montaque. Although Mr. Montaque was clear that he felt he was being pressured, he was not able to explain what Mr Patel had done. His evidence went no further than Mr Patel had spoken to him a few times about the on-going situation and asked whether he had spoken to Mr Banwo about it. When he was asked in cross-examination whether he said that Mr Patel coerced him, Mr Montaque replied, 'I don't say he coerced me. It's how I felt.' He said that Mr Patel had asked him a number of times about the statement and it felt to him that Mr Patel wanted him to do a statement.

143. Overall, I concluded Mr. Montaque was not describing actions by Mr Patel that, viewed objectively, could be characterised as coercion or pressure by Mr Patel. What he was describing was a feeling of embarrassment and some pressure arising from a difficult workplace situation. That is quite different to being the subject of coercion from a manager.

2nd March 2023

144. Issue 2.1.1.o (harassment): The claim in the list of issues is that on 2nd March 2023, Cynthia Okine deliberately obstructed Ms Maynard and rudely instructed her to walk elsewhere.

145. This allegation was not addressed in Ms Maynard's witness statement or elsewhere in her evidence. I have not been taken to any document that might support it.

146. During the cross-examination of Ms Okine, it became apparent that the allegation referred to the fact that, in addition to the official routes through the depot, there are gaps between the machinery and storage Yorks. Ms Okine agreed that it is common for staff to move through these gaps and that using the official paths, marked in red on the floor, is sometimes described as 'the scenic route'. The allegation put to Ms Okine was that, on the 2nd March 2023 she observed Ms Maynard moving through the depot through the gaps, rather than on the scenic route, and tried to stop her doing so. Ms Okine denied that she had done so.

147. The only evidence before the Tribunal in respect of this allegation was Ms Okine's evidence that she had not obstructed Ms Maynard.

17th March 2023

148. Issue 2.1.1.p (harassment): The claim in the list of issues is that on the 17th of March 2023 at about 7:40 pm, Ms Bakari told Ms Maynard that she had no friends in the place and no one liked her.

149. This allegation was not addressed in Ms Maynard's witness statement or elsewhere in her evidence. I have not been taken to any document that might support it.

24th March 2023

150. Issue 2.1.1.q (harassment): The claim in the list of issues is on the 24th of March 2023, Ms Okine falsely reported to Mr Kahn that Ms Maynard had been calling Ms Ranachandran nasty names.

151. This allegation was not addressed in Ms Maynard's witness statement or elsewhere in her evidence. I have not been taken to any document that might support it.

11th May 2023

152. Issue 2.1.1.r: The claim in the list of issues is that on 11th May Mr Rodrigues told her that Ms Okine had said that Ms Maynard had purposely and constantly hit her chair and called her names. This being a false allegation.

153. This allegation was not addressed in Ms Maynard's witness statement or elsewhere in her evidence. I have not been taken to any document that might support it.

Mr Banwo's investigation

154. Issue 2.2.1.g: The claim in the list of issues is that when Ms Maynard submitted a formal complaint to Royal Mail on 14th February 2022, Mr Banwo, who was responsible for the investigation, failed to follow a correct process and was unfair to Ms Maynard.
155. Mr Banwo became involved when he was assigned to deal with Ms Maynard's complaint in June 2022. Ms Maynard had made the complaint on 15th February 2022, on a bullying and harassment complaint form.
156. Mr Banwo is a black man. Ms Maynard suggested that he is of African descent, while she is of Caribbean origin. I did not understand that to be in dispute.
157. The written complaint alleged that in December 2020 Ms Pereira had sought to tell Ms Maynard what to do, despite not being a manager and gone on to call Ms Maynard 'disgusting names'. It alleged that bullying had continued 'to this day'. The complaint also alleged that Mr Rodrigues had failed to intervene in Ms Pereira's behaviour. Finally, it alleged that Ms Darr had shoved Ms Maynard and that Mr Rodrigues had again done nothing about this.
158. Mr Banwo arranged to meet Ms Maynard on 30th June 2022 to discuss her complaint. A note of that meeting has been produced, page 108-118.
159. In that meeting Mr Banwo sought to clarify the complaints that Ms Maynard was raising. She said that she was raising complaints against Ms Pereira, Ms Darr and Mr Rodrigues. Mr Banwo, in his witness statement, set out his understanding of the complaint at this stage as follows:
- a. That the main issues were with Ms Darr and Ms Pereira, but her complaint also included Mr Rodrigues.
 - b. That she believed that her treatment was 'racial' because the other people involved were Asian, while she was black.
 - c. That the allegations against Ms Darr involved her insulting Ms Maynard, filming her with her phone and falsely claiming that Ms Maynard was intimidating her.
 - d. That the allegations against Ms Pereira were about Ms Pereira telling Ms Maynard how to do her work.
 - e. That the allegation against Mr Rodriguez was that he had failed to show compassion towards Ms Maynard or to deal with her complaints.
 - f. Ms Maynard also raised an issue about the fact that Ms Fernandez had denied her overtime, telling her that her name was not in the book, although it was.
160. Following the meeting with Ms Maynard, Mr Banwo interviewed Sonal Jiwan, Margaret Nuzia, Asmah Darr, Perpetua Fernandez, John Lucas, Anna Pereira, Glen Rodrigues, Sonal Bakhai, Lois Facey, Merla O'Kane, Juanita Baxter, Amit Patel, Gemini Bradshaw. Notes of these meetings were taken and I accepted that these were an accurate summary of the discussions.
161. Mr Banwo sent anonymised versions of those notes to Ms Maynard on 10th November 2022. She provided written comments in response, page 314-332.

162. Much of the detail of those meetings has been summarised above. At this stage it is sufficient to record that Mr Banwo was faced with a sharp conflict of evidence, between Ms Maynard – who alleged that she was being seriously bullied and the victim of racial discrimination – and individuals who strenuously denied the allegations, while suggesting that Ms Maynard was the source of the tension and problems in the workplace.
163. Mr Banwo produced a decision report, page 337-390. He did not uphold any of the complaints made by Ms Maynard and was sharply critical of her.
164. The language used is, on occasion, florid. For example, Mr Banwo suggests that 'It was evidently clear that she [Ms Maynard] detested authority' and that 'This case was made in bad faith, and it is my recommendation that the complainant should be investigated under Royal Mail's conduct code procedure and the appropriate sanctions imposed accordingly'.
165. Mr Banwo closed the report by writing: 'Her claims are absurd propositions, preposterous accusations without any foundation. She has developed a penchant for levelling trumped up accusations against her work colleagues for her own self-aggrandizement. A glorification of all things absurd. The reverse as the case. She was the perpetrator, not the victim, as she portrayed herself to be. The respondents were too pusillanimous to stand up to her.'
166. This is not the sort of language that one would expect in a workplace report of this nature. Mr Banwo appears to have been seriously aggrieved by the fact that Ms Maynard had lodged a claim in the Employment Tribunal. He suggests that Ms Maynard had always intended to bring such a claim, regardless of the outcome of his investigation. He suggests that her action in doing so was premeditated and that this brings into question the sincerity of her claims. He concludes, on this basis, that Ms Maynard was not motivated by any attempt to 'correct a wrong behaviour' but rather for monetary gain.
167. Since the allegations to the Employment Tribunal have covered similar ground to the complaint that Mr Banwo investigated, it is important to note that the fact that he reached different conclusions to those found by the Tribunal is not inherently wrong or suspicious. Many workplace investigations and Employment Tribunal claims involve situations where the evidence is not definitive or clear. They will involve making assessments of conflicting accounts and deciding where inference to draw from the material available. It is inevitable in such circumstances that different people, both making a reasonable assessment of the available evidence, may reach different conclusions.
168. Mr Banwo faced just such conflicting evidence. I do not draw any inference from the fact that he accepted the accounts of the witnesses that disputed Ms Maynard's account or that he found that her evidence was untruthful. That was a reasonable conclusion, given the conflicting evidence before him.
169. Ms Maynard appealed Mr Banwo's decision on 6th December 2022, page 391.
170. The appeal was dealt with by Anna Walsh, an Independent Casework Manager. She met with Ms Maynard on 7th February 2023. A note of that

meeting was produced, page 399-418. The Tribunal accepted the notes were a broadly accurate account of the meeting.

171. Ms Walsh produced a report which was sent to Ms Maynard on 27th February 2023, page 427-432. She concluded that Mr Banwo had failed to clearly identify the individuals about whom Ms Maynard was complaining and the precise allegations she wished to make. She concluded that Mr Banwo's decision to anonymise the witnesses was not the correct process to follow and was unfair since it made it more difficult for Ms Maynard to respond to their evidence. She described Mr Banwo's belief that Ms Maynard was motivated by the money she might receive through an employment tribunal claim as unhelpful and distracting from his key role in considering the complaint. She described Mr Banwo as dealing with the complaint in an adversarial manner, which had led him to make ill-judged and unnecessary comments. This, she suggested, had not helped to move the process forward to where people could work together in an atmosphere of mutual respect.

172. Ms Walsh concluded that these flaws in Mr Banwo's decision had been sufficiently fundamental that they prevented the procedure going forward in any meaningful way. In effect, although she did not use these terms, she found that his report and conclusions should be treated as null and void. She recommended that Ms Maynard work with her Trade Union representative to review the situation and present any complaints that she now wished to be addressed from a fresh start.

173. I have not heard evidence about the events that followed Ms Walsh's decision and so reach no further findings of facts in relation to these matters.

Overtime allegations

174. Ms Maynard made a number of allegations about overtime, and it is convenient to deal with these together.

175. Issue 2.2.1.c: The claim in the list of issues is that on September 2021, Ms Fernandez refused to provide her with overtime on the basis that her aggregate previous overtime hours were too high, despite other colleagues with a much higher aggregate receiving overtime. Ms Maynard relied on a colleague called Mr Patel as a comparator.

176. Issue 2.2.1.e: The claim in the list of issues is that on 30th May, 6th June and 20th June 2021 Ms Fernandez denied Ms Maynard the opportunity to complete overtime, despite her following the correct procedure, when other colleagues were given overtime. Ms Maynard relies on Mr Patel and Ms Fernandez as comparators. Although the list of issues gives these dates at 2021, I have concluded this was an error and that Ms Maynard intended to refer to 2022.

177. Issue 2.2.1.f: The claim in the list of issues is that on similar dates as to 2.2.1.e (being 30th May, 6th June and 20th June 2022) Ms Fernandez told Ms Maynard that she was not eligible for Friday opening, because, at that stage, she worked Monday-Thursday. Ms Maynard alleges that other colleagues were allowed to do Friday overtime, despite not working on Fridays. She relies on Mr Patel as a comparator. Although the list of issues gives these dates as 2021, I

have concluded this was an error and that Ms Maynard intended to refer to 2022.

178. Both parties agreed that Mr Patel also worked at the Croydon depot and that, although I was not provided with precise figures, worked significantly more overtime than Ms Maynard.

179. It was common for employees at the Croydon depot to work overtime. Tick sheets, with the available overtime shifts, are posted outside the book room (an administrative office in the depot). Employees who wish to sign up for overtime mark the sheets to indicate their availability. This information is then transferred to Scheduled Attendance Record Sheets.

180. Both parties also agreed that overtime would be available in different forms, depending on the tasks Royal Mail required on that occasion. Some overtime would require a worker to be training on a particular machine, such as a sorting machine. It would not be practical for an employee to carry out an overtime shift if it required skills that they did not have. Some overtime required heavy manual work, primarily lifting. Ms Maynard accepted that she had physical limitations that meant she could not do heavy lifting. She would not therefore be able to do overtime which required such work.

181. Mr Rodrigues's evidence, which was not challenged by Ms Maynard, was that Mr Patel does not have any physical limitations on the work that he could perform and was able to work in a number of skilled roles which Ms Maynard could not. He said that the consequence of this was there would be many more overtime shifts that he was eligible for, compared with Ms Maynard.

182. Much of the evidence relating to overtime came from Ms Fernandez. Ms Fernandez worked in the book room and her duties included the administration of the overtime system.

183. Ms Fernandez's evidence was problematic, because her account of the Royal Mail's overtime system was inconsistent.

184. When she was interviewed by Mr Banwo as part of his investigation she told him that 'Our overtime is done by aggregate. Unless the manager request for specific skills', see page 211. 'Aggregate' in this context is a measure of how much overtime an employee has recently worked.

185. In contrast, her witness statement said that the assignment of overtime had 'nothing to do with a high or low aggregate'. The statement indicated that that overtime was allocated to those employees who had registered their interest on the tick sheets. It was then allocated based on the match between their skills and the type of overtime needed. She said that she understood some other offices used an aggregate system, but that Croydon depot did not.

186. In her oral evidence she returned to saying that aggregate did play a role in the decision, alongside the skills match. She said that her manager, Alan Williams, in consultation with other managers would decide how many people, with what skills, were required. She would then assign overtime based on the aggregate, with those employees with the lowest aggregate getting priority. She said that any decisions about overtime would be made by Mr Williams, following discussion with other managers. Her role was to carry out his instructions.

187. These accounts are significantly contradictory and incompatible. Either aggregate is an important factor in the assignment of overtime or it is not. And it is a matter that Ms Fernandez, who was responsible for the administration of this system, would be expected to have full knowledge of.
188. I have concluded, however, that the disparity between Ms Fernandez's evidence in her witness statement and the oral evidence that she gave me arose from a failure to carefully read and consider her witness statement before signing it and then swearing to its truth in the hearing, rather than an attempt to deceive the Tribunal. This was most unfortunate. Giving evidence on oath to a court or tribunal is a serious matter. To swear to the truth of evidence, as Ms Fernandez did, without proper care is most unfortunate.
189. I must bear in mind, however, that the fact that somebody has been careless in producing their written evidence to the tribunal does not mean that they are a dishonest witness. Considering Ms Fernandez's evidence as a whole, it does not seem to me plausible that she would have deliberately fabricated one account in her witness statement, only to depart from that account in oral evidence. Or that she would have presented an honest account in her witness statement but chosen to lie in her oral evidence. No motivation for her to do so has been suggested.
190. The account that she gave in her oral evidence seemed to me a plausible one. It would be impractical for Royal Mail to operate an overtime system based purely on the aggregate measure, when different overtime shifts required particular skills. Such an approach would inevitably lead to assigning shifts to employees who could not perform the needed work. Similarly, Royal Mail would need to have a system for choosing between employees when it had more people available for a particular overtime shift than it needed. The aggregate measure was an appropriate way of doing so and it is clear that from the Scheduled Attendance Records that this was recorded. It would be odd for those records to include the aggregate information if it had no relevance to the allocation of overtime.
191. I therefore accepted Ms Fernandez's oral account of how the overtime system worked in practice.
192. I also accept Mr Rodrigues's evidence that he was not responsible for assigning overtime to individuals, because this was a decision made by Mr Williams.
193. During the hearing Royal Mail produced Ms Maynard's annual leave and sickness absence record. It also produced some Scheduled Attendance Sheets that recorded overtime. Ms Maynard did not dispute the accuracy of these records.
194. The record sheets provided in respect of September 2021 provide the following information:
- a. In the week commencing 6th September 2021 Ms Maynard is not on the record sheet, indicating that she did not put herself down as available for overtime that week.

- b. In the week commencing 13th September 2021 Ms Maynard is marked as 'cant' in Monday, required on Tuesday, Wednesday and Thursday and not available on Friday.
- c. In the week commencing 20th September 2021 Ms Maynard is marked as required Monday, Tuesday, Wednesday and Thursday. She is marked 'cant' on Friday.
- d. In the week commencing 27th September 2021 Ms Maynard is marked as available, but not required, on Monday; required on Tuesday, Wednesday and Thursday and not required on Friday.

195. In respect of 30th June 2022, the absence record showed that Ms Maynard had been on sick leave between 24th May 2022 and 1st June 2022 because of a chest infection. Ms Maynard accepted that she was absent on 30th June 2022 and she would not therefore have been available to work overtime.

196. The record sheets provided in respect of 2022 provide the following information:

- a. In the week commencing 2nd May Ms Maynard is marked as not available on the Monday, required on Tuesday, Wednesday and Thursday; available but not required on Friday.
- b. In the week commencing 9th May Ms Maynard is not on the record sheet, indicating that she did not put herself down as available for overtime that week. The absence record shows that she was on annual leave from 9th May to 13th May 2022.
- c. I was not provided with the record sheet for the week commencing 6th June
- d. In the week commencing 13th June Ms Maynard is marked as available for the whole week, but was not assigned overtime.
- e. In the week commencing 20th June Ms Maynard is marked as available on Monday and Friday, but was required only on Tuesday, Wednesday and Thursday.
- f. In the week commencing 27th June Ms Maynard is marked as available for the whole week, but was only required on Tuesday.
- g. In the week commencing 6th September Ms Maynard is marked as available on Monday; required on Tuesday, Wednesday, Thursday and Friday.
- h. In the week commencing 13th September Ms Maynard is marked as 'cant' on Monday, required on Tuesday, Wednesday and Thursday and not available on Friday.
- i. In the week commencing 20th September Ms Maynard is marked as required Monday, Tuesday, Wednesday and Thursday; 'cant' on Friday.

197. As of the week commencing 27th September 2022, Ms Maynard's aggregate overtime stood at 7.30 hours. A number of her colleagues listed on the record sheet had lower aggregate figures, including two colleagues at 0 hours. A number had significantly higher aggregate figures. The highest aggregate figure is 26.30 hours. Two colleagues have aggregate figures in the low twenties and six colleagues are in the teens.

198. This pattern is similar in the other weeks. In the week commencing the 13th September 2021 Ms Maynard has the lowest aggregate. In all other weeks she is somewhere in the middle, with some colleagues having very much higher

aggregates. There appears to be a greater disparity between her and the higher aggregate employees in 2021 compared with 2022.

199. Neither party sought to base any submission on a detailed statistical analysis of these attendance record. Beyond the points that I have set out above, I have not embarked such an analysis myself. Without fuller information about the race of the other colleagues, the types of overtime required and the colleagues' skills such an analysis would not assist me in resolving this issue.
200. I have considered the ramifications of the fact that I was not provided the record sheet from the week commencing 6th June 2022. This is potentially significant, since 6th June is one of the dates on which Ms Maynard alleges that she was denied overtime. Ms Fernandez's evidence was that Ms Maynard was off sick with a chest infection between 24th May and 6th June 2022. If that was the case, it might explain why information about that date was not provided.
201. Although this evidence was not challenged during cross-examination, I have concluded that Ms Fernandez was wrong about this. The sick leave recorded in Ms Maynard's absence record is 24th May to 1st June 2022. Ms Fernandez's witness statement does not suggest that she has any independent recollection of Ms Maynard's absence and I would not expect her to. In those circumstances I prefer the evidence of the record, over what appears to me to have been an erroneous interpretation of it by Ms Fernandez.
202. In my view, however, the most likely explanation as to why the record for this period was not produced is that it was thought to be irrelevant on the basis that Ms Maynard was on sick leave during this period. This conclusion is supported by the fact that Mr Chaudhry argues in his skeleton argument that sickness absence explains why Ms Maynard was not given overtime on this date. It seems to me that none of the participants in the hearing, including myself, noted that Ms Fernandez's evidence was contradicted by the documentary evidence. In these circumstances, I do not draw any negative inference from the failure to provide that portion of the record.
203. In respect of 20th June 2022 the Scheduled Attendance Sheets recorded that Ms Maynard did not work overtime on 20th June, but did on 21st, 22nd and 23rd.
204. In relation to working overtime on a Friday, Ms Fernandez's evidence was that she recalled a conversation with Ms Maynard, in which Ms Maynard expressed a wish to do overtime on Friday. At that time Ms Maynard did not work on Fridays. Ms Fernandez's evidence was that she wasn't sure whether that meant that Ms Maynard could be considered for overtime on a Friday. She said that she told Ms Maynard that but went on to speak to Alan Williams who told her that Ms Maynard could be assigned overtime shifts on Friday. She said she would not have refused Ms Maynard overtime, because she had no power to make that decision.
205. Ms Maynard's account was that on 20th June 2022 she spoke to Ms Fernandez, to ask why she was not being given overtime while others were. She says she asked to see the overtime volunteer sheets as she had put her name on it but not been given overtime. She said that Ms Fernandez refused, replying that Ms Maynard had been off sick in May. Ms Maynard said that she had retorted that it had not been the whole of May and said that she was baffled

as to why Ms Fernandez would not have put her name in the book. Ms Maynard said that she had a subsequent conversation with Ms Fernandez in which Ms Maynard suggested that Mr Rodrigues had given her instructions about overtime. Ms Fernandez denied this, saying that she was instructed by Mr Williams and walked away.

206. I accept Ms Maynard's account of these discussions, but in my view it does not take the overtime claims much further. As Mr Rodrigues has said in evidence, complaints about overtime are common at Royal Mail, as they are in many workplaces. It does not surprise me that Ms Fernandez would not be keen to discuss the details of overtime with Ms Maynard or would be reluctant to have her examine past records of overtime. Her suggestion that she was instructed by Mr Williams, not Mr Rodrigues, is consistent with both of their evidence about the way that overtime was managed.

Relevant law

Direct Race Discrimination

207. Following s13 and s39 of the Equality Act 2010, the Tribunal must determine whether the respondent, by subjecting the claimant to a detriment, discriminated against him by treating him less favourably than it treated or would have treated someone else, because of a protected characteristic.

208. In this case the claimant relies on the protected characteristic of race.

209. A detriment is anything that a reasonable person in the claimant's place would or might consider to their disadvantage. It does not require that there be physical or economic consequences for the claimant – but an unjustified sense of grievance is not a detriment, see *Shammon v Chief Constable of the Royal Ulster Constabulary* [2003] UKHL 11.

210. Consideration of direct discrimination is an inherently comparative exercise. 'Less favourable treatment' requires that the complainant be treated less favourably than a comparator was or would be. The comparator may be an 'actual comparator'; that is someone in materially the same circumstances of the claimant. The tribunal may also need to consider how a 'hypothetical comparator' would have been treated. In some cases, identifying a suitable hypothetical comparator may be difficult and it may be appropriate to focus on considering why a claimant was treated in a particular way, using any evidence as to how other people are treated to inform that view, even if they are in materially different circumstances.

211. If there has been less favourable treatment, the Tribunal must go on to consider whether that was because of a protected characteristic.

212. In some circumstance, however, separating the question of whether there has been less favourable treatment from the issue of why that less favourable treatment occurred will be artificial or cumbersome. In such cases the Tribunal may consider both questions together – essentially asking whether an employee has been treated less favourably because of a protected characteristic, see *Shammon*.

213. One consequence of this comparative approach is that the fact that someone has been treated unreasonably does not mean that they have been discriminated against. For that matter, an employee who has been treated objectively reasonably may still have been discriminated against if they have nonetheless been treated less favourably than an appropriate comparator because of a protected characteristic.

214. Direct discrimination is not necessarily conscious or deliberate. The tribunal must decide 'what, consciously or unconsciously, was the reason for the treatment', see *Chief Constable of West Yorkshire Police v Khan* [2001] UKHL 48. For there to be direct discrimination it is sufficient that the protected characteristic be a material influence on the reason for the treatment. It does not need to be the only or main reason for the treatment.

Racial harassment

215. Section 26 of the Equality Act 2010 provides that a person (A) harasses another (B) if A engages in unwanted conduct related to a relevant protected characteristic and the conduct has the purpose or effect of:

- a. Violating B's dignity, or
- b. Creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

216. In deciding whether the conduct has the effect referred to above, account must be taken of: a) the perception of B; b) the other circumstances of the case; c) whether it was reasonable for the conduct to have that effect.

Burden of proof

217. In relation to all of this, the burden of proof is on the claimant initially to establish facts from which the tribunal could decide, in the absence of any other explanation, that the respondent discriminated. If this is established it is for the respondent to show that they did not discriminate.

218. A shift in the burden of proof requires more than a difference in treatment combined with a difference in protected characteristic, see *Madarassy v Nomura International PLC* [2007] ICR 867. There must be something further from which it could be concluded that the protected characteristic influenced the decision.

219. Establishing that conduct was unreasonable is insufficient to shift the burden of proof, see *Glasgow City Council v Zafar* [1998] IRLR 36 & *Law Society v Bahl* [2003] IRLR 640.

220. If, however, a tribunal is able to make positive findings on the evidence it is not necessary to apply the burden of proof provisions mechanistically. In such a case a Tribunal may proceed directly to considering the reason for the treatment, see *Hewage v Grampian Health Board* [2012] UKSC 37.

Conclusions

Harassment

Issue 2.1.1.a

221. As dealt with in my findings of facts, I have concluded that Ms Darr described Ms Maynard as a nutter, an ugly bitch, mentally ill, grossly ugly and suggested that she had no friends and that nobody liked her.
222. I have not, however, been able to reach conclusions about the context in which these remarks were made or the circumstances in which they were made, because there was insufficient evidence to do so.
223. Nonetheless, I have concluded that this was unwanted conduct, which had the effect of creating a hostile environment for Ms Maynard. Given my findings of fact, this is self-evident, both from the nature of the remarks and from Ms Maynard's evidence.
224. The key issue I must resolve is whether Ms Darr's conduct related to the protected characteristic of race.
225. I have concluded that Ms Maynard has not established primary facts on which a tribunal could find, in the absence of an explanation, that these incidents amounted to conduct relating to her race. The comments are unpleasant and hostile, but the words used do not refer, either explicitly or by implication, to Ms Maynard's race. Even if I were able to assume that the remarks were unprovoked and there was no element of either justification or mitigation involved, there is nothing on the face of the remarks that suggests a connection to race. There might be any number of possibilities as to why Ms Darr spoke in such an unpleasant manner.
226. Ms Maynard's argument, essentially, is that Ms Darr is of Pakistani origin and has this in common with many other members of the group of employees she found herself in conflict with. She argues this is sufficient to support an inference that the unwanted conduct against her related to her race. Applying, however, the guidance in *Madarassy v Nomura International* a difference in race alone is insufficient to justify such an inference. There must be something more than a difference in race combined with objectionable or unreasonable behaviour. There is no such 'something more' in the evidence before me.
227. For that reason, I dismiss this allegation of racial harassment.

Issue 2.1.1.b & Issue 2.1.1.c

228. As dealt with in the findings of fact, I have concluded that Ms Pereira did pass on an instruction to the claimant in relation to her work.
229. I do not, however, find that this had the purpose or effect of violating Ms Maynard's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for her. I accept Ms Pereira's evidence that she was seeking to relay an instruction given by managers earlier in the day. Although

she might have done so more tactfully, I do not find that this reached the threshold of creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant.

230. In reaching that conclusion, I have particular regard to whether it was reasonable for Ms Pereira's behaviour in passing on the instruction to have such an effect. In my view, it was not. It is routine in many workplaces for colleagues to pass on instructions that they have received from management. The fact that Ms Pereira might have approached this more tactfully does not mean that her action reached the threshold required for her actions to amount to harassment.

231. As set out above, I concluded that the incident then devolved into an argument. Given the limited evidence I have been unable to reach clear factual conclusions about what was said in that incident, beyond finding that both Ms Pereira and Ms Maynard were shouting angrily. This is insufficient to support a finding that Ms Pereira's actions had the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for Ms Maynard. This is particularly the case given that I have concluded that it was Ms Maynard's response to an essentially innocuous (if blunt) statement made by Ms Pereira that began the argument.

232. Even if I am wrong about that, I would have gone on to find that Ms Maynard had not established primary facts on which a Tribunal could find, in the absence of explanation, that this incident amounted to conduct related to her race. Again, there is nothing on the face of the accounts of this incident that suggests a connection to race. The difference in race between Ms Maynard and Ms Pereira is insufficient to support a conclusion that the conduct related to her race.

Issue 2.1.1.d & Issue 2.1.1.e

233. As set out in my findings of fact, I have concluded that there has been insufficient evidence to establish the underlying facts of these allegations against Ms Darr.

234. Even if I am wrong about that, I would have gone on to find that Ms Maynard had not established primary facts on which the Tribunal could find, in the absence of explanation, that these incidents amounted to conduct related to her race. Even if I had concluded that these events had occurred, there is nothing to suggest that they related to her race. The difference in race between Ms Maynard and Ms Darr is insufficient to support a conclusion that the conduct related to her race.

Issue 2.1.1.p, q & r

235. As set out in my findings of fact, I have concluded that there has been insufficient evidence to establish the underlying facts of these allegations against Ms Darr.

236. In any event, had I concluded that alleged events had occurred, I would

have gone on to find that Ms Maynard had not established primary facts on which the Tribunal could find, in the absence of explanation, that they amounted to conduct related to her race. The difference in race between Ms Maynard and Ms Bhakri and Ms O’Kane is insufficient to support a conclusion that the conduct related to her race.

Issue 2.1.1.f

237. As set out in my findings of fact, I have concluded that Ms Pereira honestly believed that Ms Maynard had struck her chair and reported that allegation to Mr Rodrigues.

238. The allegation was not, therefore, a false one, since Mr Pereira held a genuine belief in it.

239. I have, however, considered whether in all the circumstances the incident amounted to an act of harassment, notwithstanding that honest belief. I accept that the allegation was unwanted conduct. It did not, however, have the purpose or effect of violating Ms Maynard’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for her. In respect of the purpose, Ms Pereira has motivated by a genuine belief that Ms Maynard had acted deliberately and that she was, in colloquial terms, the victim of the incident. She was seeking to protect herself, rather than to act against Ms Maynard. This is also the context in which I must consider the effect. I do not consider the incident sufficiently serious to pass the required threshold. In any workplace there are likely to be disputes and misunderstandings, particularly where people work in close proximity. Such incidents become more likely and more common where there is some level of animosity or distrust, as there was in this case. This does not mean, however, that any complaint against an employee is sufficiently serious to amount to harassment.

240. Further, I have concluded that Ms Maynard had not established primary facts on which the Tribunal could find, in the absence of explanation, that this incident amounted to conduct related to her race. There is nothing in the accounts of incident to suggest such a relationship. The difference in race between Ms Maynard and Ms Pereira is insufficient to support such a conclusion.

Issue 2.1.1.g

241. As set out in my findings of fact, I have concluded that Ms Pereira did not accuse Ms Maynard of hitting her in a work area, in the sense of making any complaint, whether formal or informal, to the management of Royal Mail. When, however, there was inadvertent contact between them she did ask, rhetorically, why Ms Maynard had struck her, in a way that clearly carried the suggestion that she had been hit deliberately.

242. As with the earlier incidents involving Ms Pereira and Ms Maynard, I have concluded that this did not amount to harassment. Ms Pereira did not act in order to violate Ms Maynard’s dignity or to create an intimidating, hostile, degrading, humiliating or offensive environment for Ms Maynard. Rather she was reacting spontaneously in the genuine belief that Ms Maynard had

deliberately struck her. The incident was not sufficiently serious to meet the threshold for harassment.

243. Further, I have concluded that Ms Maynard had not established primary facts on which the Tribunal could find, in the absence of explanation, that this incident amounted to conduct related to her race. There was nothing in the incident itself to suggest that. The difference in race between Ms Maynard and Ms Pereira is insufficient to support such a conclusion.

Issue 2.1.1.h

244. As set out in my findings of fact, I have concluded that Mr Rodrigues did not say to Ms Maynard that the way that she looked at him was not normal, but rather she did not normally look at him in the way she did on that occasion. This was in the context that he was explaining why he had come over to speak to ask her whether she needed anything, since he had understood from her body language that she wished to talk to him.

245. Mr Rodrigues's conduct therefore did not have the purpose or effect of violating her dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for Ms Maynard. Further, I have concluded that Ms Maynard had not established primary facts on which the Tribunal could find, in the absence of explanation, that this incident amounted to conduct related to her race.

Issue 2.1.1.i & j

246. As set out in my findings of fact, I accepted Ms Maynard's account of these incidents. In relation to both incidents I find that Ms Darr's conduct did have both the purpose and effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for Ms Maynard.

247. I have, however, concluded that Ms Maynard did not establish primary facts on which the Tribunal could find, in the absence of explanation, that this incident amounted to conduct related to her race. There is nothing in the incidents to suggest that they have a racial basis and the mere difference in race between Ms Maynard and Ms Darr is insufficient to support such a conclusion.

Issue 2.1.1.k

248. As set out in my findings of fact, I have concluded that Mr Rodrigues said something to the effect that Ms Maynard's complaint would need to be dealt with in his time, not hers.

249. I have concluded, however, that in the context of the busy Christmas period, this did not have the purpose or effect of violating Ms Maynard's dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for Ms Maynard.

250. Further, I have concluded that Ms Maynard had not established primary facts on which the Tribunal could find, in the absence of explanation, that this

incident amounted to conduct related to her race. Nothing in the incident itself suggests this.

Issue 2.1.1.l & m

251. As set out in my findings of fact, I accepted Ms Maynard's account of these incidents. In relation to both incidents I find that Ms Darr's conduct did have both the purpose and effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for Ms Maynard.

252. I have, however, concluded that Ms Maynard did not establish primary facts on which the Tribunal could find, in the absence of explanation, that this incident amounted to conduct related to her race. There is nothing in the incidents to suggest that they have a racial basis and the difference in race between Ms Maynard and Ms Darr is insufficient to support such a conclusion.

Issue 2.1.1.n

253. As set out in my findings of fact, I have concluded that Mr Patel did not seek to coerce or pressure Mr Montaque. There was no conduct that had the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for Ms Maynard.

254. Further, I have concluded that Ms Maynard had not established primary facts on which the Tribunal could find, in the absence of explanation, that this incident amounted to conduct related to her race.

Issues 2.1.1.o, p, q & r

255. I have concluded that there is no evidential basis to make out these allegations. There is no evidence, from the claimant, another witness, or in the documentary record I have been taken to that would support a factual finding that these events took place.

Direct discrimination

Issue 2.2.1.a

256. This allegation is the same factual allegation as issue 2.1.1(f), put on a different legal basis. It is rejected for the reasons set out above.

Issue 2.2.1.b

257. I have concluded that Mr Rodrigues did not fail to deal with the claimant's complaint against Ms Pereira, while dealing with the complaint that Ms Pereira had made against her. Rather than Mr. Rodrigues addressed both allegations together, by meeting with both women and seeking to reconcile them. Following Ms Pereira's apology, he believed that he had done so.

258. Mr Rodrigues did not therefore treat Ms Maynard less favourably than he did Ms Pereira.

Issue 2.2.1.d

259. I have concluded that neither Mr Khan nor Mr Rodrigues were aware of an issue arising from Ms Pereira being in Ms Maynard's work area. Ms Pereira had not been instructed not to enter that area.

260. Ms Pereira was not an appropriate statutory comparator, since she was not in the same circumstances as Ms Maynard. There is no suggestion that anyone was entering Ms Pereira's area of work in a way that caused her any issue.

261. There was no prospect of any hypothetical comparator being treated differently to Ms Maynard by Mr Khan or Mr Rodrigues, since they were not aware that Ms Maynard was concerned by Ms Pereira coming into her area of work on these isolated occasions. Any hypothetical comparator would also include that circumstance. There would therefore be no reason for Mr Khan or Mr Rodriguez to take any action.

Issue 2.2.1.g

262. I accept that Mr Banwo's approach to Ms Maynard's complaint was fundamentally flawed. I agree with the criticisms made by Ms Walsh of his approach. In particular, it was wrong not to more clearly identify and agree the allegations made by Ms Maynard at the beginning of the process and unfair to anonymise the witnesses before their evidence was shared with Ms Maynard. Mr Banwo's tone in his report was inappropriate. He went far in excess of his task in drawing inferences from the fact that Ms Maynard had brought a Tribunal claim and concluding that she was motivated by financial considerations rather than bringing a complaint in good faith. As Royal Mail now accepts, it was a sadly mishandled investigation.

263. I have concluded, however, that Ms Maynard has not established primary facts on which a Tribunal could conclude, in the absence of explanation, that discrimination had occurred. Unreasonable conduct, combined with a difference of race, is not, in and of itself, sufficient to reverse the burden of proof. In this regard Ms Maynard has relied on two material differences of race, the difference in race between her and those she has alleged bullied her and the difference in race between her and Mr Banwo (his is of African origin, while she is of Caribbean origin). I have considered both these differences in conjunction with Mr Banwo's unreasonable conduct of the complaint. But they are not sufficient, taken together, that a reasonable Tribunal could conclude, in the absence of an explanation, that Mr Banwo dealt with the complaint in the way that he did because of Ms Maynard's race.

264. For the avoidance of any doubt, I accept Ms Maynard submission that the fact that two people share a particular aspect of their racial identity does not mean it is impossible (or even implausible) that one will discriminate against the other. I therefore accept that the fact that Mr Banwo is black does not mean, axiomatically, that he would not discriminate because of race against another

black person. As both a matter of law and reality, such discrimination can and does occur. But the evidence does not establish that Mr Banwo discriminated against Ms Maynard in this case.

Overtime allegations: Issue 2.2.1.c, e & f

265. Issue 2.2.1.c alleged that Ms Maynard was refused overtime in September 2021.

266. Issue 2.2.1.e and issue 2.2.1.f alleged that Ms Maynard was refused overtime on 30th May, 6th June and 20th June 2022.

267. As set out above, I have concluded that Ms Maynard was absent due to sickness on 30th June 2022. In relation to that date, therefore, she has not been treated less favourably in this regard, since nobody could have been assigned overtime while absent due to sickness.

268. I do not have documentary evidence in respect of 6th June. For the reasons set out above I do not accept Royal Mail's argument that Ms Maynard was on sickness absence on that date. In the absence of any other evidence, I accept Ms Maynard's evidence that she was available for overtime on that date but did not receive it.

269. Both parties agree that Ms Maynard was available for overtime on 20th June, but was not assigned it. She did work overtime on 21st, 22nd and 23rd June.

270. I have concluded that Mr Patel was not an appropriate statutory comparator for Ms Maynard. This is because the fact that he was able to carry out a significantly wider range of overtime shifts meant that he was not in materially the same circumstances as her.

271. I have also concluded that Ms Fernandez was not an appropriate statutory comparator for Ms Maynard. She was not in materially the same circumstances as her since Ms Fernandez was in a quite different role. In any event, I have no information about whether overtime was available to Ms Fernandez or what level of overtime she might have worked.

272. The correct hypothetical comparator in relation to overtime would be an employee in the same role as Ms Maynard, with the same limitations in respect of the work they could perform arising from both physical limitations and applicable skills, but of a different race. The evidence that has been presented does not go any way to establishing what overtime such a hypothetical person might have received and therefore whether they would have been treated more favourably than Ms Maynard, either on the specific dates provided or more generally. It goes no further than to establish that Ms Maynard worked significant overtime, but other colleagues worked much more. Without more evidence about the race of the colleagues; what types of overtime they were able to take on and the types of overtime available, it is impossible to make any inference about why they received more overtime hours or whether a hypothetical comparator might have received more overtime than Ms Maynard.

273. Given this, I have concluded that Ms Maynard has not established primary facts on which a Tribunal could conclude, in the absence of explanation, that

discrimination had occurred

Stepping back to consider the allegations as a whole

274. Although I have dealt with the allegations individually above, I have also considered whether, taking the totality of the allegations and the evidence, Ms Maynard has established facts that might lead a Tribunal to decide that there has been discrimination in relation to any of the allegations.

275. I have concluded that they do not. Ms Maynard has, in my view, established that she has been victim of acts of bullying by some individuals in Royal Mail and there were occasions, particularly in respect of Mr Banwo's investigation of her complaint, where Royal Mail behaved unfairly towards her. But the evidence was not such as to allow for an inference that this behaviour related in any way to her race.

Time limits

276. Issues 1.1 to 1.2.4 related to the tribunal's statutory time limit contained in section 123 Equality Act 2010. Given my findings above, I have concluded that the complaints relating to matters before 3rd May 2022 were brought out of time. Since I have concluded that there were no acts of either direct race discrimination or racial harassment, there was no relevant conduct extending over a period.

277. Similarly, given my findings of fact, I have concluded that it is not just and equitable to extend time.

Approved by:

Employment Judge Reed
23rd September 2025

JUDGMENT SENT TO THE PARTIES
ON: **25th September 2025**

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FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision. If written reasons are provided they will be placed

online.

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/