



EMPLOYMENT TRIBUNALS

Claimant: W

Respondent: X

Heard at: Birmingham Employment
Tribunal

On: 16-24, 27 June 2025 &
30 June, 2 July 2025,
(Chambers)

Before: Employment Judge Akhtar
Mr P Wilkinson
Mr P Simpson

REPRESENTATION:

Claimant: In person

Respondent: Mr E Beever (Counsel)

RESERVED JUDGMENT ON LIABILITY

The unanimous Judgment of the Tribunal is that:

1. The complaint of discrimination arising from disability is not well-founded and is dismissed.
2. The complaint of failure to make reasonable adjustments is not well-founded and is dismissed.
3. The complaints of indirect race, sex and disability discrimination are not well-founded and are dismissed
4. The complaint of victimisation is not well-founded and is dismissed.

CLAIMS AND ISSUES

1. The claimant brings claims of discrimination because of something arising in consequence of disability, failure to comply with a duty to make reasonable adjustments, indirect race, sex and disability discrimination, and victimisation.
2. The issues were agreed between the parties as directed by Employment Judge Flood, following a case management hearing on 4 February 2025.
3. The issues are set out below:

1. TIME LIMITATION / JURISDICTION (IN RESPECT OF ALL DISCRIMINATION CLAIMS)

1.1 There are time limitation arguments to be determined in respect of each claim alleged.

1.1.1 Was the claim form presented within 3 months (plus early conciliation extension) of the act to which the complaint relates?

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

1.1.3 If so, was the claim made to the Tribunal within 3 months (plus early conciliation extension) of the end of that period

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

(a) Why were the complaints not made to the Tribunal in time?

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

2. DISCRIMINATION - DISABILITY

2.1 Was the Claimant disabled as defined in s6 Equality Act 2010?

2.1.1 Did the Claimant have a mental impairment? The Claimant relies upon severe depression.

2.1.2 Did that impairment have a substantial adverse effect on the Claimant's ability to carry out normal day-to-day activities?

2.1.3 Was that adverse effect long-term?

2.1.4 Was the Claimant disabled at all relevant times? The Claimant cites the relevant time as being from **March 2022 until 29 August 2024** (when the claim was presented).

3. Discrimination arising from disability

3.1 Did the Respondent know/could the Respondent reasonably have been expected to know that the Claimant had a disability? If not, when ought the Respondent to have been aware of the Claimant's disability? The Claimant alleges the Respondent had knowledge from 15 March 2022.

3.2 Did the Respondent treat the Claimant unfavourably by producing an adverse recommendation on 2 May 2024, 18 June 2024 and 1 July 2024 in respect of the Claimant meeting the requirements of probation based partly on the following allegations:

- (a) The Claimant failing to respond to programme teams and student questions in a timely manner (as referenced in the Claimant's probation report dated 2 May 2024);
- (b) The Claimant failing to provide online module pages in a timely manner (as referenced in the Claimant's probation report dated 2 May 2024); and
- (c) The Claimant failing to mark in a timely manner (as referenced in the Claimant's probation report dated 2 May 2024).

3.3 The Claimant alleges the 'something arising' in consequence of her disability is that she requires more time to complete the tasks referenced above at 2.2.2 as a result of her disability.

3.4 Was the unfavourable treatment in connection with the Claimant taking longer to complete the tasks referenced above?

3.5 Was the treatment a proportionate means of achieving a legitimate aim namely to ensure a satisfactory student experience and to ensure the contractual obligations the University has towards students and their teaching are met.

4. Reasonable adjustments

4.1 Did the Respondent know/could the Respondent reasonably have been expected to know that the Claimant had a disability? If not, when ought the Respondent to have been aware of the Claimant's disability?

4.2 Did the Respondent apply a provision, condition or practice ("PCP")? The Claimant relies on the following PCP:-

The Respondent required the Claimant to take the same amount of time as persons without disabilities to complete the tasks set out at paragraph 32 of the Particulars of Claim.

4.3 If so, did that PCP place the Claimant at a substantial disadvantage in comparison with employees who did not have the Claimant's disability in that the Claimant's severe depression meant that it took her longer to complete the tasks referenced at 2.3.2 above.

4.4 Did the Respondent know or could the Respondent reasonably have been expected to know that the Claimant was likely to be placed at a disadvantage?

4.5 What steps could have been taken to avoid the disadvantage? The Claimant suggests it would have been reasonable to provide the Claimant with:-

- (a) more time by an extra few days to complete the tasks referenced at paragraph 2.3.2 above and / or not take into account non completion of these tasks when considering the adverse recommendation as to probation;
- (b) teaching relief during term 1 in 2022 (moving the Global Sourcing class from Term 1 to Term 2);
- (c) removing teaching and marking responsibilities and / or providing teaching assistants for support with marking and seminars; and
- (d) having another person cover her lectures

4.6 Was it reasonable for the Respondent to have to take those steps and when?

4.7 Did the Respondent fail to take those steps?

5. Indirect discrimination (applies to race, sex and disability discrimination)

5.1 Did the Respondent have the following PCP?

A probation requirement to achieve a module rating of 3.5 or higher based solely upon student module feedback and without taking into account prejudices and biases of students.

5.2 Did the Respondent apply the PCP to the Claimant?

5.3 Did the Respondent apply the PCP to persons with whom the Claimant does not share the disability impairment or race or sex of the Claimant or would it have done so?

5.4 Did the PCP put people of the Claimant's sex or race or disability impairment at a particular disadvantage in comparison to others who did not share that protected characteristic?

5.5 Was the Claimant disadvantaged by the PCP? The Claimant says she received lower scores without any adjustment to take into account prejudices and biases in all of the scores that she received during her probation period.

5.6 Was the PCP a proportionate means of achieving a legitimate aim?

The Respondent asserts that in assessing whether expectations in role have been met as regards teaching, it is legitimate to take into account the students' view of, and satisfaction with, the quality of teaching given they are the recipients of that teaching and the Respondent has entered into a contract to provide a certain level of service (they in effect being the Respondent's consumers). The Respondent asserts this is not the only metric by which teaching is assessed and the extent to which it is taken into account is proportionate.

6. Victimisation (applies to race, sex and disability discrimination claim)

6.1 Do the following amount to 'protected acts'?

- (a) In or around June 2023 the Claimant raising a grievance alleging sex, race and disability discrimination in relation to a disciplinary investigation, probation and student feedback and then appealing the grievance outcome in September 2023;
- (b) On 5 March 2024 the Claimant attending a meeting with the Respondent's HR Director, to discuss multiple probation cases within

the Business School linked with discrimination which included her and other colleagues;

- (c) In April 2024 her colleague naming the Claimant in a claim filed against the Respondent which alleged sex and pregnancy discrimination; and
- (d) On 10 May 2024 the Claimant raising a grievance alleging discrimination and victimisation.

6.2 Did the Respondent do the following things:

- (a) Withdrawing support for the Claimant's application for partial exemption of the teaching excellence course on 30 April 2024 (relying on protected acts at 2.5.1 (a) to (c) above);
- (b) Producing an adverse recommendation on 2 May 2024 in respect of the Claimant's probation, in particular in respect of the Claimant not being collegiate (relying on protected acts 2.5.1 (a) to (d) above); and
- (c) Giving notice of failure of probation on 18 June 2024 and 1 July 2024 on the basis of the adverse recommendation (relying on protected acts 2.5.1 (a) to (d) above)

6.3 By doing so, did it subject the Claimant to detriment?

6.4 If so was it because the Claimant did a protected act?

7. Remedy for discrimination or victimisation

7.1 Should the Tribunal make a recommendation that the respondent take steps to reduce any adverse effect on the claimant? What should it recommend?

7.2 What financial losses has the discrimination caused the claimant?

7.3 Has the claimant taken reasonable steps to replace lost earnings, for example by looking for another job?

7.4 If not, for what period of loss should the claimant be compensated?

7.5 What injury to feelings has the discrimination caused the claimant and how much compensation should be awarded for that?

7.6 Has the discrimination caused the claimant personal injury and how much compensation should be awarded for that?

7.7 Is there a chance that the claimant's employment would have ended in any event? Should their compensation be reduced as a result

7.8 Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?

7.9 Did the respondent or the claimant unreasonably fail to comply with it by [specify breach]?

7.10 If so is it just and equitable to increase or decrease any award payable to the claimant?

7.11 By what proportion, up to 25%?

7.12 Should interest be awarded

PROCEDURAL MATTERS

1. On days 1 and 2, the Tribunal dealt with an anonymity application from the claimant. This was granted and we agreed the claimant's name, the respondent's name and the names of respondent witnesses would be anonymised as follows:

The claimant ("W")

The respondent ("X")

Pro Dean, Business School Faculty ("Witness Q")

HR Business Partner ("Witness R")

Provost ("Witness S")

HR Manager, Business School ("Witness T")

Vice Provost and Chair of Faculty of Social Sciences ("Witness U")

Academic Director, Research Executive ("Witness V")

2. We set out our reasons for granting anonymity in the decision section of this judgment at paragraphs 166 to 174.

Amendment Application

3. On day 4 of the hearing the claimant presented an amendment application seeking to introduce a new claim of unfair dismissal. We refused the application for the reasons set out below.
4. Firstly, we addressed whether EJ Flood had effectively determined the amendment application in her correspondence to the parties of 22 April 2025. We concluded that whilst EJ Flood was asked to consider matters pertaining to postponement of the hearing due to the effect on remedy and she does directly engage with the issue of amendments to the claim stating that such an application would be considered should it arise and commenting that listing is likely to be extended, she does not make a determination in this regard. In such circumstances, we did not find that this precluded us from dealing with this matter

5. We then went on to consider the application to amend. Applying the well-known test in ***Selkent Bus Co Ltd v Moore 1996 ICR 836 EAT*** (“the Selkent test”), having regard to the interests of justice, the Tribunal considered the relative injustice and hardship that would be caused to the parties by allowing or refusing the amendment application respectively.
6. Looking firstly at the nature of the amendment, the amendment was a significant one introducing an entirely new claim. We did not accept the claimant’s submission that the evidence in the claim would involve essentially the same factual matrix. Whilst, we accepted there may be some overlap in facts, we had no evidence before us in respect of the claimant’s performance over the past 12 months, this would be critical to our considerations in respect of the legal test to be applied when looking at a claim for unfair dismissal, which involves very different considerations to those for discrimination complaints, which were the matters currently before us.
7. We concluded that introducing a claim of unfair dismissal would significantly widen the scope of our enquiry and would require the length of the current listing to be extended.
8. With regard to the timing and manner of the application, the claimant presented her application on day 4 of the final hearing, despite such matters being mooted and referenced by EJ Flood in April 2025 and despite being on notice of termination of employment since June 2024. We found she had been in receipt of legal advice since at least February 2025 and had representation at the preliminary hearing before EJ Flood. In such circumstances, we did not find that she was prejudiced in this regard as a litigant in person with limited knowledge of the law.
9. With regard to the balance of prejudice, we found there would be limited prejudice to the claimant should we refuse her application.

Dismissal had not yet taken place, she would be able to present a claim within 3 months of the effective date of termination, irrespective of whether she was in India or the UK.

10. We noted the submissions of the respondent and accepted the significant injustice and hardship that would be caused to it should the claimant be allowed to amend her claim. The current hearing would have to be adjourned, further evidence would have to be obtained, witness statements would have to be amended, which we accepted would cause the respondent significant cost and prejudice.
11. For all these reasons and in furtherance of the overriding objective to deal with cases justly, expeditiously and in a way which saves expense and undue delay, the claimant's application to amend was refused.
12. With regard to other procedural matters, the claimant was given permission to rely on her particulars/grounds of claim as evidence in chief to the Tribunal. The Respondent was given permission to rely on the supplementary statement of Witness Q.

DOCUMENTS AND EVIDENCE HEARD

13. The Tribunal heard evidence from the claimant and the following witnesses on behalf of the respondent:

Pro Dean, Business School Faculty ("Witness Q")

HR Business Partner ("Witness R")

Provost ("Witness S")

HR Manager, Business School ("Witness T")

Vice Provost and Chair of Faculty of Social Sciences ("Witness U")

Academic Director, Research Executive ("Witness V")

14. There was a main tribunal bundle of approximately 4,044 pages. The claimant also produced her own supplementary bundle of 1009 pages. We informed the

parties that unless we were taken to a document in the bundle, we would not read it.

15. Both parties provided written closing submissions as well as making oral submissions. These submissions are not set out in detail in this judgment, but the parties can be assured that we have considered all the points made and all the authorities relied upon, even where no specific reference is made to them.

FINDINGS OF FACT

16. Having considered all the evidence, both oral and documentary, we made the following findings of fact. These findings are not intended to cover every point of evidence given but are a summary of the principal findings that we made from which we drew our conclusions.

Background

17. The claimant was employed as an Assistant Professor in Information Systems and Management within the respondent University's Business School, commencing on 1 July 2018. The claimant's employment was subject to the standard probationary period of five years, albeit this was duly extended by a year. As a result of the one year extension, the claimant's probation was due to be completed on 30 June 2024.
18. In January 2019, Witness Q (Pro Dean, Business School Faculty) met with the claimant to discuss and explain probation requirements. These were subsequently set out in writing to the claimant on 7 January 2019. The claimant was informed that the normal probationary period was 5 years from the start of employment and that she was required to complete the respondent's teaching excellence course as part of her probation. The letter also set out the standard four probation requirements, which we will discuss further below.
19. One of the probation requirements set out in the claimant's probation letter was in respect of teaching scores. The claimant was advised that *teaching scores*

are monitored, and we expect you to consistently receive feedback above our minimum expectations', alongside 'high levels of professionalism and performance in all teaching activities'.

Probation at the Respondent

20. The respondent makes academic appointments of Assistant Professors, who are research and teaching focused subject to a probationary period, which is usually five years. The respondent's probation process enables an Assistant Professor, if they meet probation targets to be promoted to an Associate Professor role at the end of a successful probation.
21. Probation targets/criteria are set out in the University's Academic Probation Guidelines. The targets/criteria are grouped into four different areas namely: a) research b) teaching and learning c) impact, outreach and engagement and d) collegiality, leadership and management.
22. Whilst probation periods normally last for five years because of COVID for all those in probation in 2020/21 a decision was taken by the University to extend probation by one year, this included the claimant.
23. The university has a number of different Academic Departments and Faculties. The claimant was employed as an Assistant Professor within the Business School, which is one of the largest departments, having one of the largest cohorts of staff and consequently probationers.
24. Whilst probation criteria all follow the same guidelines, different departments at the University have different requirements based on their discipline.
25. Separate to the probationary evaluation process, the Business School also administer a module quality monitoring process for all modules. If a module falls below a feedback score of 3.5, this triggers a 'quality control' process, where the Business School will consider if there were any issues requiring attention.

26. The Business School offers support to all probationers in the form of teaching relief, which equates to a year of study leave spread across the first four years of employment, enhanced research allowance and close mentoring. All assistant professors are assigned a mentor close to their field of research who is expected to be in close dialogue with them throughout the year.
27. The Business School management, including the Pro Dean Faculty, meet with each probationer annually to discuss timeline and agreed targets. Targets are confirmed with probationers at each meeting and they are completed on the forms. The meetings are held with the head of department, the professionals mentor and/or line manager.
28. In advance of the meeting with the Pro Dean, the probationer will complete relevant paperwork setting out the work that has been undertaken in the last 12 months and progress against targets. At the meeting with the pro Dean, the probation is completed paperwork is discussed and comments from the business schools perspective are completed by the pro Dean with support from HR.
29. The completed form is then sent to the Dean of the Business School for sign off. The Dean meets with the pro Dean and HR representative to go through all of the paperwork all relevant probationers before sign off.
30. With regard to the probation evaluation process, the Business School rely on student feedback as one element used to assess teaching.

Student Feedback scores

31. In its Student Module Feedback Policy, the respondent sets out that departments will normally undertake module evaluation on an annual basis. The policy sets out that this evaluation process should consider evaluation by the staff who teach the module, consideration of assessment outcomes, feedback from students during and/or after the module and feedback from staff peers.

32. Paragraph 6a of the policy states that *“Student module evaluation outcomes cannot be used as the only data indicating the effectiveness of a module. Evaluative remarks by those who deliver the module assessment outcomes and other relevant data must be included when giving evaluation information”*.

Teaching Excellence Course ‘TEC’

33. For Assistant Professors on research and teaching contracts, there is also a compulsory probationary requirement to complete a teaching excellence course (“TEC”). The course is 12-months long, part-time, blended learning, and confers Fellowship of the Higher Education Academy (“FHEA”) on completion. The requirement to complete TEC and the requirement to obtain FHEA are separate. The guidance on the course internet pages sets out that new staff must begin the teaching excellence course within 8 months of joining the University
34. The course is delivered through a combination of workshops, online content and learning; probationers are responsible for engaging in the course independently. It is possible to complete the course by obtaining a partial exemption from certain elements, for example, where it is clear that from previous work an individual has been able to demonstrate completion of such skills or aptitude in it.

Probation Review Group (“PRG”)

35. All academic probationers are reviewed annually by the Probation Review Group (“PRG”) who monitor progress and make decisions regarding continuation, confirmation or termination of appointment. PRG has oversight of all academic probation across the university to try and ensure that consistency in standards is maintained.

36. PRG is a subcommittee of the academic staff committee. At the time period relevant to this claim, the Provost chaired the PRG, which is made-up of representatives of each faculty.
37. PRG meet each academic term to assess the relevant cases for consideration. It is possible to have out of cycle meetings where the circumstances necessitate. The summer meeting of the PRG is the busiest in terms of the number of cases to deal with and often cases require more than one meeting. There can be up to three meetings in the summer term.
38. The PRG receive annual reports from each faculty and within that the relevant head of department makes a recommendation. The options the head of department can recommend are a) recommending to continue normally on probation; b) recommending an extension of probation or recommending early completion. For those in their last year scheduled to complete probation, the recommendations are: a) completion of probation or b) recommending not to complete. The recommendation not to complete means that an employee has been unable to fulfil probation requirements, resulting in adverse recommendation from the department.
39. PRG's role is to review cases and make a determination as regards each probationer's progress and whether they continue in probation and/ or are confirmed in role. If an adverse recommendation is made and PRG agrees with the assessment determining that a probationer has not met the relevant targets, one year's notice is given to terminate employment. Should notice of termination be given, PRG will also determine whether to provide a rescind clause. This means that if during the notice period a probationer meets the targets the probationer can then be confirmed in post of associate professor and the notice rescinded.
40. Once PRG receive the annual reports 'close readers' are assigned to each probationer. A close reader's responsibility is to take a deep analysis of the paperwork and ensure that the evidence is there to support and link to the achievements and recommendation. The PRG meet as a group and go through

each case. If close readers agree with the evidence presented and the recommendation matches up they will reference that to the group and less the group have questions there is generally consensus. If close readers disagree or the case is more nuanced a broader discussion takes place amongst PRG before a determination is reached. The decision is conveyed annually to every probationer.

41. Also probationers in their final year have no right to attend or appeal against PRG's decision through the probation process. However, in the final year if the PRG make a provisional decision to endorse an adverse recommendation, the probationer is given a right to attend a meeting to directly make representations to PRG.
42. At the representation meeting, if the decision remains to issue notice of termination, a decision letter is sent to the probationer with details of any rescind clause as appropriate. The probationer then has a right of appeal for that to be considered by the Senate Appeals Committee.

Athena Swan charter

43. The Athena Swan charter was introduced by Advance Higher Education in 2005, to encourage the advancement of women's careers. The respondents Business School has been awarded a gold Athena Swan award. As part of the Athena Swan application, the Business School were required to consider the data held on feedback scores from students as regards its male and female teaching members of staff. We discuss this further at paragraphs 122 to 127 below.

Claimant's probationary period

44. The first annual probation meeting was held in April 2019 with Witness Q and Witness R, (HR business partner), following which a Probation Review Report for the academic year 2018/2019 was completed and signed by the Dean of the Business School. It was recommended that the claimant's probation continue

as normal. It was noted that the claimant recognised that she experienced some difficulties in clearly defining her expectations to students and that she would ensure that she had clear guidance for students moving forward. It was also noted that the claimant would complete the teaching excellence course.

45. On 15 July 2019, a PRG meeting outcome letter was sent to the claimant confirming that PRG supported the Dean's recommendation of continuing with probation as normal.
46. In December 2019, the respondent identified a misalignment of salary, which resulted in a salary increase for all assistant professors including the claimant. The claimant contends use of words "*continuing commitment*" in the letter informing her about the salary increase is evidence that her performance was being recognised by way of a bonus. We prefer the evidence of the respondent and find the letter contains generic wording that is not personally directed at the claimant and specifically refers to a salary increase. We note the letter came from the Provost and accept the respondent's evidence that she would not have been in a position to comment on the claimant's day to day performance.
47. The second annual probation meeting was held in May 2020 with Witness Q and Witness R. It was recommended that the claimant's probation continue as normal. It was noted that the claimant "*had seen an improvement in teaching feedback in the last year. She had tried to make improvements to the content by adding more case studies. Whilst progressing, it was recognised there remained scope for development in this area*". It was also noted that the claimant needed to begin TEC as soon as possible.
48. On 24 July 2020 a PRG meeting outcome letter was sent to the claimant confirming that PRG supported the Dean's recommendation of continuing with probation as normal. In the outcome letter, PRG urged the claimant to engage with TEC as soon as possible as this was a requirement for completion of Probation.

49. There was no formal review meeting held in the academic year 2021/2022 due to COVID. Further, the claimant was advised in an email sent by Witness R on 14 May 2020 that her probation would be extended by a year and her new probation end date would be 1 July 2024. The extension of probation due to COVID was applied to all probationers.
50. On 14 July 2021, Witness Q sent the claimant details of additional support assistance along with details of the Teaching and Learning Enhancement ("TLE") Team.
51. An interim annual probation review meeting took place on 7 July 2021. At this meeting, it was recorded that the claimant had experienced teaching challenges due to the completely online mode. Her teaching feedback scores for the 2 modules she taught during spring 2021 were recorded as 3.18 and 3.14 respectively. As a result further support was offered to the claimant with regard to teaching and class content.
52. A follow up email was sent to the claimant on 14 July 2021 by Witness Q setting out an action plan for teaching support in areas the claimant had experienced challenges. The support offered included connecting the claimant with an Associate Professor who could provide her support with the delivery of online lectures as well as the TLE team who could provide support with class content and related activities. The claimant was also asked to complete a Module Development workshop to help enhance student learning. Witness Q also stressed in the email, the need to ensure slides were uploaded in advance and that lectures commenced on time as it had been noted by the claimant's mentor that students had complained in feedback about the claimant's timeliness in starting lectures.
53. The claimant responded to Witness Q's email on 15 July 2021 thanking him for his suggestions and commenting against each one indicating that she would undertake the necessary actions by contacting various individuals.

54. A follow up meeting to the July interim review, took place on 2 December 2021 where further actions for support were discussed and agreed. These were set out to the claimant in an email from the lead for TLE on 6 December. In brief, matters in the development support plan included observations and feedback on online modules as well as links to various sites and instructions on the teaching site that was being used.
55. On 31 January 2022, the claimant's line manager was contacted by the Academic Support Manager advising him the claimant had not completed the Time Analysis Surveys ("TAS") from August and December 2021. It was requested that she completed these and return asap.
56. On 13 February 2022, the claimant's line manager forwarded the claimant the email from the Support Manager asking her to ignore if she had already completed. The claimant replied the next day apologising and confirming that she would complete the forms.
57. On 15 February 2022, the claimant's line manager received an email from the Programme Team advising that the claimant was late with the marking of one of her modules. The claimant had been provided with a marking extension form and had been asked to speak to her Head of Group for support with marking but did not update the Programme Team further. The claimant's line manager forwarded the Programme Team's email to the claimant on the same day and enquired if everything was okay.
58. On 25 February 2022, the claimant received a number of emails in quick succession. Firstly, at 13.29, the claimant received an email on behalf of the Dean of Students to advise that she had been nominated for the University Awards for Personal Tutoring Excellence.
59. At 13.32 on 25 February 2022, following student feedback, concerns were raised with the claimant by the Information Systems Course Director, regarding the length and relevance of some of her cloud technologies seminars. The

claimant responded to this email the next day stating that she couldn't *"take it anymore"*.

60. Finally at 14:24 on the same day, the claimant received an email from the Undergraduate Programme Management Team following student complaints regarding marking and feedback. The claimant was asked to complete a form for the External Examiner who would be asked to validate the marks. The claimant was also asked to provide more detailed feedback as the feedback provided was insufficient. The feedback did not explain where students had failed to meet criteria or where they could improve in future. It was also highlighted that students had received copied and duplicated feedback that consequently had not been tailored to the individual.
61. The Programme Team chased the claimant for a response on 2 March 2022, stressing the urgency of the situation and advising that 12 formal complaints had been received about the marking and feedback on a particular module.
62. On 4 March 2022, the claimant's line manager asked that she contact the Programme Team Management that day if possible.
63. On 14 March 2022 the Programme Management Team chased the claimant for a response to their emails of 25 February and 2 March. The claimant was advised that a second marker had reviewed the marking and had agreed with the awards. The feedback however remained insufficient and the claimant was asked to re-write the feedback by a deadline of Friday 18 March.
64. The claimant did not respond and the Programme Management Team chased this up on 15 and 16 March. On 16 March, the claimant's line manager who was copied into the emails responded to the claimant to advise that she did not need to reply to the Programme Management Team's emails and that they would not send her any more emails. The claimant's line manager's intervention came about as a result of a meeting with the claimant on 16 March 2022, where she had raised issues with her health.

65. Witness Q was due to meet with the claimant on 16 March 2022 for her probation review meeting, however, the claimant asked for this to be rescheduled; this was agreed. A meeting did take place on 16 March, so that the recent concerns regarding marking and feedback could be discussed with the claimant. During the meeting, the claimant reported that she felt bullied by her mentor and was struggling with her mental health including having suicidal ideation. The meeting was paused and Witness R was asked to attend the meeting to provide HR support. The claimant requested Occupational Health ("OH") support and it was agreed that Witness R would arrange a referral. Shortly after the meeting, it was also agreed that alternative arrangements would be made regarding the outstanding marking and feedback.
66. On 17 March 2022, Witness R emailed the claimant's line manager and mentor stating that she was concerned about the claimant's well-being and that she would email her to check in as well as suggesting they do the same. The claimant's mentor responded to advise that she had attempted to support the claimant over the past 2 years but this was now being interpreted by the claimant as *"unhelpful and even bullying"*. The claimant's mentor advised that it was for this reason she had not raised the student complaints about marking with the claimant and had asked the Undergraduate Team to do this. It was highlighted that the claimant had failed to answer emails from the Undergraduate Team, and had on 16 March accused them of *"essentially inciting UG students to complain because they received a poor mark"*.
67. The claimant's mentor agreed that the claimant was struggling with her mental health and sought guidance regarding whether the claimant should be asked to provide revised feedback on over ninety individual assignments. Witness R responded advising it would be best to find an alternative option given the conversation with the claimant about her health. Witness R also confirmed that she would seek OH advice on how to manage matters going forward and whether any reasonable adjustments were needed.
68. Witness R sent the referral request to OH on 18 March 2022. The referral noted that the claimant had made the department aware that she was experiencing

“some mental health concerns, including anxiety, depression and suicidal thoughts”. Advice was sought on potential adjustments for the claimant.

69. An appointment was arranged with a senior OH advisor on 31 March, however the claimant advised she was not available, although did not state why. A further appointment was arranged for 4 April, again the claimant was unable to attend and the appointment was rearranged to 19 April 2022.
70. On 31 March 2022, the Course Director of Information Systems sent an email to the claimant's line manager setting out a draft email he was proposing to send to the claimant regarding student feedback for the Global Sourcing and Cloud Tech module. The email explained the module evaluation results were far from the expected teaching quality expectations for this module with an overall score of 3.18 out of five. The Course Director noted he had offered support to the claimant with this module in various ways given the score last year had been 3.14 but the claimant had not taken him up on this. The Course Director set out that some student feedback had been passed on to the claimant on a few occasions during the term but it had not been taken well, communication had been poor and an important meeting with the course representatives had been missed. The Course Director stated the module was *“hurting”* its reputation of teaching excellence. He further noted that as a benchmark the average evaluation of the other 5 modules that term was 4.3 out of 5.
71. The fourth formal probation review meeting for the academic year 2021/22 took place on 4 April 2022. It was noted that with regard to research the claimant had had a research paper rejected but that her recent level of research productivity was impressive. It was also noted that in recognition of her research work in Artificial Intelligence (“AI”), she had been nominated for the ‘We Are The City Rising Star’ Award, 2022 and was also a Keynote Speaker at the Award Ceremony in London.
72. With regard to her teaching, it was noted that the claimant had received support from within the School and she felt confident with her teaching and had enjoyed

returning to the classroom post COVID. Module feedback scores for autumn 2021 and spring term 2022 had shown an improvement and were recorded as 4.37 and 3.95 respectively. Under the heading teaching and innovation, it was recorded that the claimant (along with her team) was the winning team at the Business School Teaching Academy 2022, for designing a new module '*Embedding AI : Futureproofing Organizations*'. The claimant was also the Speaker and Panelist for the Future: Hungary Conference, 2022.

73. The claimant was once again advised to complete TEC as soon as possible, at this point she was recorded as having commenced engagement with the course and had completed some of the aspects but still had some to complete. The recommendation was that the claimant should continue normally on probation.
74. The claimant's OH report dated 19 April 2022 reported that she had reported suicidal ideation recently due to low self-worth and increased anxiety relating to work. The claimant reported that she has also struggled with maintaining concentration in and out of work. The report advised that that the claimant was not fit for work at present and may not be until her next review appointment scheduled for 18 May 2022.
75. The claimant attended a telephone review appointment with OH on 18 May 2022, which concluded that she was fit for work. It was noted that since the last appointment she had registered with a GP and had been prescribed medication which had led to an improvement in wellbeing in the last few weeks. The claimant conveyed feeling supported at work by her colleagues and management checking in on her well-being. She reported that she had remained at work against the advice from her last consultation and had managed this due to her prescribed treatment. The claimant reported that term had ended, so her work was extremely manageable though she was unsure how she would feel once term restarted.
76. The report noted the claimant felt isolated during the pandemic, which had a negative effect on her wellbeing. She hoped things opening back up would help

her wellbeing and that she planned to visit family in India that weekend for three to four weeks.

77. OH Recommended the claimant continue with her prescribed treatment and external support with her psychological well-being. It was also recommended that the claimant complete the stress management questionnaire to identify potential work stress and assist with alleviating this. We were not taken to any evidence confirming that the claimants had completed this questionnaire. OH did not arrange a further appointment at this time and discharged the claimant but noted if her medical situation changed they would be happy to review on receipt of another referral.
78. On 24 May 2022, the claimant's line manager attempted to arrange a catch-up meeting with the claimant when she let him know she was enroute to India.
79. On 6 May 2022, the claimant's line manager replied to the claimant noting that he had been pleased to read in the OH report that she had noticed some improvement in her wellbeing following her prescribed treatment, that she felt supported at work and that her work was extremely manageable at present. Whilst noting the trip to India could be beneficial for the claimant's wellbeing, he advised that he should be made aware of and approve any extended period of leave.
80. On 22 June 2022, the claimant replied to her line manager stating that she was working full-time and not on annual leave. She advised that she was working on 6-7 research projects, attending research meetings, writing grant proposals, acting as dissertation broker and supervising Master's students.
81. We find that this contradicts the content of the claimant's disability impact statement provided in December 2024. Within this statement the claimant advises that whilst she was in India, she was reliant on her family for even the most basic of care needs. We will address this conflict in evidence in our conclusions section.

82. At a meeting with her line manager on 11 July 2022, the claimant asked to be excused from teaching during the first term of the academic year. The claimant's line manager replied to her on 26 July stating that he had sought HR advice and spoken to the claimant's mentor. He advised the claimant that it was too late to change the undergraduate teaching because the module concerned was already in the students' timetable. The claimant's line manager explained there was however, an option to outsource the Term 1 teaching but for the claimant to keep the module leadership and marking or alternatively ask someone else to act as module lead and complete marking with the claimant just delivering lectures. It was also suggested that student feedback could be dealt with sensitively via HR rather than the Programme Management Team
83. For Term 2 the claimant's line manager advised that external instructor to deliver part of the content could be sourced with similar arrangements to Term 1 for module administration and handling student feedback as well as working with a new Course Director.
84. On 29 July 2022, the claimant's line manager sent an email to Witness R explaining he was finding it difficult to reach an agreement with the claimant regarding her teaching in Terms 1 and 2. He noted that the OH report had indicated the claimant was fit for work but was unclear on what reasonable adjustments were recommended in respect of teaching. The claimant was requesting someone deliver the lectures as well as mark individual essays and give student feedback. The claimant wanted to manage the module, update content and was content to mark the group work.
85. Witness R recommended a further OH referral be made for guidance regarding the claimant's health and her requested adjustments.
86. Whilst OH advice was being sought, the claimant agreed to deliver teaching in Term 1 but with some of this being online. However, she only delivered a few of the lectures personally and engaged a Graduate Teaching Assistant to deliver the others in that term.

87. On 30 July 2022, the claimant provided her line manager with a handwritten note from a consultant psychiatrist in India stating that the claimant was suffering from “*major depression*” and had been under her treatment since 15 July 2022.
88. On 1 August 2022 a PRG meeting outcome letter was sent to the claimant confirming that PRG supported the Dean’s recommendation of continuing with probation as normal. In the outcome letter, PRG encouraged the claimant to progress with the teaching excellence course.
89. On 5 August 2022, the claimant’s line manager received an email from the Programme Management Team stating that they had been advised by the claimant that she would not be marking re-sit submissions for one of her modules, they queried who would be picking this up as new assessment criteria was also required.
90. On 12 August 2022, Witness R submitted an OH referral in relation to the claimant’s request for teaching relief and an appointment was scheduled for 30 August. The claimant contacted OH directly and rescheduled the appointment for September.
91. The claimant’s line manager sent her an email on 26 August 2022 advising her that an OH referral had been made and advised her that an alternative teaching arrangement could not go ahead until this was completed.
92. Witness R liaised with the claimant to try and get a date arranged for the OH assessment before teaching started for Term 1. The claimant was unavailable for appointments on 30 August and 1 September but was available to attend on 15 September and an appointment was arranged for this date.
93. On 15 September, the OH advisor sent an email to Witness R, advising that she had called the claimant 3 times but she did not answer, this was recorded as “*did not attend*”. The claimant replied to say she had been unwell and a further appointment was arranged for 27 September.

94. On 28 September 2022 a Graduate Teaching Assistant was identified by the claimant's line manager and approval was sought from Witness Q for the incurring of fees.
95. Witness R contacted OH for an update in respect of the claimant's appointment on 27 September and was informed that the appointment had been cancelled due to staff sickness and the claimant was unable to make the new dates offered. The next appointment was eventually arranged for 13 October 2022.
96. On 5 October 2022, the Claimant's line manager informed Witness R that the claimant had agreed to deliver a lecture. Subsequent to this the claimant contacted Witness R on 12 October requesting the OH appointment for 13 October be cancelled as she had agreed to teach now and she felt anxious about having to relive her situation again with OH.
97. Witness R contacted HR to postpone the appointment for 13 October, this was rescheduled to 15 November 2022. When notifying the claimant of the new OH appointment, Witness R also invited the claimant to provide details of the bullying allegations relating to her mentor that she had mentioned earlier in the year.
98. The claimant replied to Witness R on 13 November 2022, advising that she was delivering half of the lectures for the module and sitting in on lectures delivered by the Graduate Teaching Assistants just in case the students raised any questions. The claimant also confirmed that she did not wish to pursue a bullying complaint against her previous mentor.
99. On 14 November 2022, Witness R notified OH that the claimant could not attend the appointment on 15 November because she was due to be in London. Witness R contacted the claimant on 18 November explaining the University had made every effort for her to attend OH appointments before any teaching began to ensure they could provide her with any support and make any reasonable adjustments that were recommended to help her in her role.

Witness R advised that a number of OH meetings have had to be rescheduled and that it would be helpful for all parties, for the claimant to attend the next arranged OH appointment.

100. Witness R sent a further referral to OH on 23 November 2022, which was a copy of the 12 August 2022 referral. As Witness R did not hear anything from the claimant following her email of 18 November, she sent her a further email on 6 December asking if OH had confirmed a date. OH contacted Witness R on 14 December advising they could offer the claimant an appointment on 17 or 19 January 2023 but had not heard back from the claimant regarding her availability.
101. The claimant met with her line manager and mentor on 9 January 2023 to discuss feedback in respect of her probation review documents. The claimant's evidence to the Tribunal was that at this meeting both her line manager and mentor were in *"unanimous agreement that the claimant qualifies for early probation and completion"*. This contrasts starkly with the claimant's line manager's comments in a grievance interview in July 2023, where he states that in the meeting on 9 January, the claimant asks directly whether early probation completion would be signed off. She is advised by both her line manager and mentor that it would not be due to collegiality and leadership concerns.
102. On 10 January 2023, the claimant sends her mentor a revised copy of her probation review paperwork seeking his further comments. The claimant's mentor replies on the same day, stating *"I read through both and your document is good – just add page numbers. One additional thing you may want to add is 'I will strive to improve the module to ensure the ratings climb over 4'".* The claimant relies on this email as written confirmation that her passing probation was supported. We prefer the evidence of the respondent and find there is no comment in the contemporaneous email which suggests that early completion of probation would be supported. The chronology at this point in time was clear in respect of the respondents concerns with the claimant's performance, this

further supports our conclusion that the respondent did not express support for early completion of probation.

103. On 20 January 2023, at Witness Q's request, the claimant's line manager sent him a timeline of historic and most recent scores which had triggered a module development plan in 2020, formal student complaints and marking issues relating to the claimant.
104. In February 2023 a disciplinary investigation took place relating to concerns regarding whether the claimant had followed the relevant processes in relation to the recruitment of external teachers and payment of staff as well as a failure to discharge responsibilities as Module Leader in relation to the marking of student assignments.
105. On 3 March 2023, the claimant provided a letter from her GP dated 2 March 2023. The letter stated that the claimant had previously been seen with symptoms of depression in May 2022 relating to issues at work and was prescribed anti-depressants at the time. The letter noted the claimant felt very stressed with low mood, poor sleep and suicidal ideations due to a lack of direction and clarity around her situation at work. It was stated that medication had been helping the claimant but the recent stress had led to a deterioration in her health. The GP asked if the university could provide additional support to the claimant and review her work situation.
106. Witness R sent an email to the claimant on the same day setting out a timeline of all the support the University had provided to date since becoming aware of the claimant's health concerns. With regard to what further support the University could offer, Witness R suggested a meeting to discuss how and what additional support the claimant was looking for and what the University could offer her. A further OH referral was also suggested.
107. On 28 March 2023, the claimant met with her line manager and Witness R. during this meeting, the claimant asked for the marking of circa 150 assignments to be reallocated and teaching relief for term 1 for her 2023/24

teaching. The claimant confirmed she was comfortable with continuing as a personal tutor as well as supervising three to four dissertations. Witness R explained in her follow up email that in order to consider these requests, expert OH advice was required.

108. The claimant's annual probation review meeting was due place in person on 30 March 2023. Initially the claimant's request to have the meeting online was declined on the basis that without OH advice on reasonable adjustments and clear guidance from the claimant's GP it was considered reasonable for the meeting to go ahead in person. Following representations from the claimant's representative, it was later agreed that the meeting could be held online, with a room being made available in the business school as well as including the claimant's mentor due to concerns around the claimant's well-being. The meeting was postponed to 11 May 2023.
109. On 31 March 2023, the claimant confirmed to Witness R that she was happy for an OH referral to be made with the same OH advisor that she had spoken to in the past.
110. On 31 March 2023, the claimant's line manager was forwarded the claimant's latest student feedback scores. The overall module score was graded 2.6 and the programme team advised that these were the worst comments that they had seen. The programme team sent a further email on 8 April 2023 expressing concern that students were not receiving sufficient support with the assessment for the claimant's module.
111. On 13 April 2023, Witness R sent a further referral request to OH requesting the same OH advisor as previous, if possible. Witness R noted in the OH referral form that the claimant "*was still feeling very stressed with low mood , poor sleep and suicidal ideation*". Witness R referenced the claimant's GP letter of 2 March 2023 and that the claimant had been seen by a psychiatrist in India in June 2022. Witness R set out the adjustments being requested by the claimant, which were reduced marking, no teaching in Term 1 and online

instead of in-person meetings. Witness R sought OH advice on the claimant's medical condition and prognosis as well as reasonable adjustments.

112. An OH appointment was initially scheduled for 18 April 2023 with an advisor, however due to an administrative error, the claimant was not notified. It is accepted that a male OH advisor left the claimant a voicemail on that day. On 18 April, the claimant sent Witness R an email notifying her of the contact and seeking clarification regarding the original advisor who was female. Witness R responded on the same day, advising that there had been a mis-communication and that she was trying to arrange an appointment with the original advisor.
113. On 28 April 2023, responding to an email from the claimant's representative Witness R queried the "*diagnosed condition*" mentioned in his emails. Witness R advised that the respondent was not aware of any diagnosed condition and that it was important that further advice was sought from OH, the next appointment was scheduled for 5 May 2023. The claimant's representative replied to Witness R on the same date stating that the claimant's mental health had been poor for some time and the department was aware of this through previous OH and GP reports.
114. Following an email from the claimant, the OH appointment of 5 May 2023 was rearranged as the claimant was unwell and could not attend. In her email the claimant also advised that she had seen abusive student feedback and this was impacting her ability to mark. Witness R responded to advise that this could be discussed at the probation review meeting on 11 May.
115. On 9 May 2023, Witness R was sent emails from the claimant and her representative regarding rearranging the probation review meeting of 11 May. The claimant wished to speak to the Director of HR prior to the probation meeting about discrimination against her and the lack of support from the department.
116. On 10 May 2023, Witness R replied to the claimant and her representative to advise that it was not considered appropriate to defer the probation meeting.

Witness R acknowledged that the student comments were uncomfortable to read but the majority were not regarded as abusive. With regard to the student feedback being withdrawn from the claimant's view, witness R acknowledged that this had been done in order to protect the claimant given the volume of negative comments.

117. Witness R sent a further email to the claimant on 11 May advising the claimant that the purpose of the probation review meeting was to focus on support and development and not to discuss individual student feedback. Witness R advised that the School did not solely rely on the feedback of students to judge teaching capability, there was a more rounded approach to this. Witness R advised that given the claimant's indication that she would not attend the meeting, this had been rescheduled to 16 May. The claimant was also advised that if she did not attend, the meeting would go ahead in her absence.
118. On 15 May 2023, the claimant advised Witness R that she would not be attending the probation review meeting. In response Witness R advised her to submit any further comments by 9am on 16 May.
119. On the same date, the claimant also contacted her line manager to advise that she had been unable to complete marking because of the contents of the student feedback. This was despite the claimant advising her line manager a month earlier that she would let him know if she had any difficulties with the group marking she had agreed to do.
120. The probation review meeting took place in the claimant's absence on 16 May 2023. Following the meeting the claimant was sent summary notes and guidance. The notes set out in particular concerns around the claimant's teaching, describing "*a consistent pattern of failure to deliver modules to the required standard*" and student feedback module scores being significantly below standards. It was highlighted that there had been prior concerns with teaching as a result of which additional support had been provided. It was recommended that the claimant would need to provide evidence that she is able to successfully run modules on a sustained basis. She was encouraged

to reach out to various individuals and teaching and learning support. With regard to TEC she was encouraged to complete this in a timely fashion.

121. On 23 May 2023, the claimant emailed her line manager asking for her teaching load to be reduced further and stating that she was unable to take on the supervision of some dissertations. At this time the claimant was only doing 2.4 out of 6 units of teaching, which was the lowest in the group.
122. On 25 May 2023, a disciplinary outcome letter was sent to the claimant stating there were insufficient grounds to uphold the allegations, so no further disciplinary action would be taken. However, the Dean concluded that there were concerns around the quality of the claimant's teaching, which he noted had been ongoing since 2020-21. He advised the letter was one of serious concern and recommended the claimant follow the recommendations provided to her as part of the probation review process on 16 May 2023.
123. On 30 May 2023, the claimant responded to the 16 May probationary review meeting outcome disagreeing that she had not met the probation criteria yet.
124. Witness R was notified that the earliest that OH could offer the claimant an appointment was 23 June, the claimant subsequently accepted the appointment.
125. On 14 June 2023, the claimant's line manager was contacted by the Programme manager advising him that a student had informed them that they were struggling with the claimant as their line manager. The claimant's line manager advised that the claimant had a very light work load and had agreed to supervise students and that it was fine for the programme manager to speak to the claimant directly about this.
126. On 20 June 2023, the claimant raised a grievance on the following grounds:
 - (a) The disciplinary process had been unfair and the matter should have been dealt with informally;

- (b) the Business School was not allowing the claimant to pass probation when she considered she had clearly met all of her targets;
- (c) the claimant was being asked to absorb abusive student feedback and students were not being held accountable for their behaviour. This included the qualitative being hidden from the claimant but the quantitative feedback still being used to measure her teaching performance.

127. The claimant attended an OH appointment on 23 June 2023. The report noted that the claimant had reported *“exacerbated symptoms of anxiety/depression attributed to perceive work related stress”*. OH concluded that the claimant was fit for work with temporary adjustments. They recommended the claimant may benefit from not undertaking teaching responsibilities during Term 1 due to concerns raised regarding her psychological well-being. OH concluded that it was hoped that following closure of the current investigation the claimant may return to full duties with improved performance. The report also concluded that the claimant was fit to attend face to face meetings provided she had sufficient notice and that attending meetings to progress the investigation of closure of current work concerns would be beneficial.
128. On 10 July 2023, the claimant’s GP wrote a letter stating that the claimant had contacted the doctor with concerns that the school had done nothing to support her since her last meeting with the GP in March 2023. The GP noted that anonymous feedback had caused a deterioration in the claimant’s mental health. The letter confirmed that the claimant was taking medication for depression and asked that the claimant’s situation be reviewed and support be arranged.
129. Witness R’s evidence was that this letter had not been provided to the Business School at the time and she had only become aware of it following disclosure in these proceedings. The claimant did not seek to challenge this evidence. We accept the respondent’s evidence in this regard as there is no reason not to.

130. On 17 July 2023, following receipt of the OH report, the claimant's line manager contacted her to discuss the teaching plan for the next academic year. The claimant replied on 19 July to advise that she was unable to have this discussion as there was a parallel grievance investigation running.
104. The claimant was sent a grievance outcome letter on 22 August 2023, advising that the grievance manager had concluded that there were insufficient grounds to proceed to a grievance hearing.
105. The grievance investigation report concluded that there was no evidence to support the claim that the disciplinary investigation procedure involved discrimination or that the process was started to deter the claimant's probation progress. Given the potential serious nature of the conduct allegations, the grievance investigator concluded that it was reasonable and appropriate to proceed with a formal disciplinary investigation and there was no requirement for an informal discussion to take place with the claimant prior to the commencement of the investigation.
106. With regard to the Business School's processes for reviewing all probationers during their probationary period of service, the grievance manager concluded that there was no evidence of discrimination in the School's process. The report concluded that the Business School was not supporting the claimant's case to progress with probation, rather than not allowing her to clear probation, as was alleged. The report also concluded that completion of probation is confirmed by the PRG rather than a department and, as such, that decision did not rest with the Business School.
107. Finally, in respect of student feedback, the grievance investigation report concluded that there were no personally abusive comments, although there were some strongly worded negative feedback and comments. The report acknowledged that the Business School could have more clearly communicated to the claimant regarding the actions it had taken to address inappropriate student comments and that the 2023 feedback, in particular, was

taken down in concern for the claimant's wellbeing and not because some comments were abusive.

108. The claimant appealed the grievance outcome on 6 September 2023 on the grounds that the grievance manager did not take into account or appropriately consider her key points. In addition, the claimant states that there was new evidence that had not been considered at an earlier stage.
109. On 23 October 2023, the claimant was sent an appeal outcome letter informing her that her appeal had not been upheld. The appeal panel concluded that in respect of the outcome of the disciplinary there was no evidence of race or sex discrimination. It was noted that the disciplinary investigation had found in the claimant's favour. The appeal concluded that it was normal practice to seek to establish facts by conducting a disciplinary investigation into such serious matters.
110. With regard to the process for reviewing probationers being discriminatory, the appeal considered the additional information provided by the claimant. The Appeal panel concluded that none of the emails submitted as part of the appeal were viewed by the panel to evidence the claimant's assertion that she had been told prior to 10 January 2023 that she had already met the necessary thresholds to complete probation. The panel concluded that the record of annual probation review highlights over time the Business School's expectations for sustained progress across Research and Scholarship and Teaching and Learning, including successful completion of the teaching excellence course.
111. In respect of student feedback, the panel acknowledged all the positive feedback submitted by the claimant and concluded the Business school had decided to incorporate student feedback into its processes and it is applied to all staff consistently. Therefore, it could find no evidence to suggest that the claimant had been discriminated against in relation to this point.

112. The panel acknowledged that the student feedback from a student in March 2021 was completely inappropriate and acceptable. The Business School had indicated that the student was due to graduate in September and therefore action at that stage was not considered appropriate. The panel concluded that given the timescales more could have been done by the School to raise this with the student. However, ultimately, the panel concluded that there was no evidence to support the claim that the Business School had discriminated against the claimant in relation to their use of student feedback which they apply to all Business School staff.
113. The claimant contacted ACAS on 14 November 2023 and commenced the early conciliation process.
114. On 19 November 2023, the claimant's line manager contacted the claimant to discuss her teaching load as the grievance process had now concluded. The claimant responded to advise that she was speaking to Witness T (HR Manager, Business School) who had asked that a meeting be arranged with HR support in the next few weeks.
115. The claimant's case was due to be reviewed at PRG on 29 November 2023, however, this was subsequently postponed due to the large number of documents which needed to be reviewed.
116. On 4 December 2023 a meeting was held with the claimant, Witness Q, Witness T and the claimant's support representative to discuss her return to teaching following conclusion of grievance investigation. It was agreed that the claimant would return to gradual full teaching in Term 2 and by Term 3 it was hoped that there would be a return to full teaching responsibilities. It was agreed that there would be a change of mentor and the claimant was provided details of the new mentor. It was also agreed at the claimant's request that a referral to OH would be made, so they could assess whether further support was required before full teaching was resumed.

117. An OH appointment was arranged for 19 December 2023 OH but the claimant could not attend this as she was travelling back from a conference. The appointment was rearranged to 9 January 2024.
118. On 3 January 2024, the claimant provided a doctor's note stating that she was not fit for one month due to a "*stress related problem*". The claimant requested that the OH appointment be rescheduled for when she returned to work.
119. On 8 January 2024, Witness T sent an email to the claimant encouraging her to attend the appointment on 9 January so that the University would have information relating to her health to inform adjustments which could be made. The claimant did not attend the appointment.
120. The claimant's case was considered by the PRG on 16 January 2024 and it was confirmed that the claimant continue normally with probation in her final year, however there was a need for targeted focus in 3 core areas, without which probation would be unsuccessful. This included engagement with and completion of the teaching excellence course, evidence of improved outputs in teaching and learning activity and evidence of improved collegiality with colleagues, which included both working style and activity.
121. The claimant was provided a copy of the PRG outcome in a letter dated 17 January 2024.
122. Dr Hartley, the claimant's GP provided a letter dated 1 February 2024 in which he advised that the claimant was keen to work with the University to arrange a further OH appointment. Dr Hartley reported that the claimant's mental health had deteriorated more so over the last 6 months and that she was experiencing low mood, anxiety, sleep disturbance, sweats, memory disturbance, low appetite and blackout type moments.
123. On 5 February 2024, the claimant provided a further GP Fit note stating that she was unfit for work for a further month due to a "*stress related problem*".

124. An OH appointment was arranged for 6 February 2024, the claimant attended this appointment but refused permission for the OH report to be disclosed to the respondent. The report was also not made available to the Tribunal. OH advised Witness R that the claimant was not happy with the content of the report but had refused to provide details of any changes that she was suggesting. As a result on 20 February, OH advised the claimant that they would closing her case and that she would have to proceed without their beneficial guidance.
125. In her written evidence to the Tribunal, Witness R produced a timeline of the claimant's OH referral history. The table summarised that over a period of 2 years there had been numerous referrals to OH but the claimant only attended on 4 occasions, resulting in only 3 reports being provided to the University as permission for the last report to be shared in January 2024 was refused.
126. On 12 February 2024, PRG responded to the claimant in respect of an indication from her that she had applied for early probation clearance. PRG advised that there was no ability to submit an early completion case as an individual and this must be put forward by the Head of Department, with appropriate supporting evidence.
127. On 27 February 2024, the claimant emailed Witness R to confirm that she would be attending her probation review meeting on 7 March. She also informed Witness R that she was meeting with the HR Director with 3 other colleagues and that there were tight deadlines for the court application for March. Witness R did not attend the meeting with the HR Director, however, she did later attend a meeting with the Trade Union to discuss the probation process in the Business School generally.
128. On 27 February 2024, the claimant submitted her TEC partial exemption application to Witness T and the teaching excellence team. Witness T replied to the claimant on the same day stating that HR would commence drafting the statement on behalf of Witness Q.

129. Witness T sought advice from the TEC team manager as to what evidence was required for partial exemption. The manager replied on 1 March 2024 to advise that a colleague had reviewed the claimant's application and did not believe the assessed section that had been completed was sufficient to meet the requirements for partial exemption.
130. The email also provided a timeline of contact and the claimant's action in respect of completing the course. This set out that the claimant had first registered for the course in January 2022 and she was provided with partial exemption forms at that point. The claimant was also advised at that time that ordinarily partial exemption forms were ordinarily only accepted in the first three months of probation and that in any event part 1 of the course would still require completing. It was clarified that the claimant had not completed any of the course and had not accessed the online site after registration on 20 January 2024.
131. The claimant returned to work on 3 March 2024.
132. On 5 March, the claimant and 3 of her colleagues met with the HR Director to discuss issues regarding their probation periods. The tribunal were not provided with the detail in relation to this meeting, however, the claimant did not challenge the respondent's evidence that the issues of all the probationers related to varying individual issues but only the claimant and another probationer colleague were alleging discriminatory treatment. The other probationer colleague also brought an employment tribunal claim and the claimant relies on the fact that she was named in this claim as a protected act in her victimisation complaints. We will discuss this further in the conclusion section.
133. An annual probation review meeting was held on 7 March 2024, attended by the claimant, Witness Q and Witness R. During the meeting areas of performance against progress were discussed and Witness Q explained to the claimant that at that stage the business school were minded to make an adverse recommendation in that the claimant had not met the relevant standard

in all areas. Witness R subsequently held a meeting with the Dean who was in agreement with the adverse recommendation.

134. The basis for the adverse recommendation was set out in an email to the claimant on 15 March 2024. With regard to research, this was considered to be borderline, however the position in respect of teaching remained the same as the last review. At that point the claimant had not undertaken any teaching in Term 1 or 2 of the academic year, she had also not completed the marking and assessment work which was to be assigned in Term 2. The claimant had advised that she could not do this pending OH advice, which she then had refused permission to release the OH advice when she had received it. The respondent confirmed that it had not seen a copy of the OH advice to date. The Tribunal were also not provided a copy of the February 2024 OH report.
135. The respondent asserted it could only base its decision on the work the claimant had done and there was no evidence that the claimant had made any improvements which would suggest she was meeting expectations in terms of teaching, both in respect of leadership and teaching feedback, including but not only from students. The failure to complete the teaching excellence course was also noted. The claimant's work in respect of impact, outreach and engagement including media work was regarded as noteworthy and praised. However, it was identified as a concern that this work was seemingly prioritised over other areas, which were deemed lacking.
136. The claimant submitted a copy of her TEC application for partial exemption to Witness T, on 11 March 2024 and Witness Q was asked to provide a statement. On 14 March, the course manager responding to a query from Witness T, advised that the one of the purposes of a supporting statement was to ensure the applicant had the support of the department in that their teaching performance was fine and they did not professional development.
137. It was clear that Witness T and consequently the Business School were unclear as to the process and what was required from them in terms of a supporting statement. This was evident from the emails that passed between the teaching

excellence team and Witness T seeking clarification, where Witness T explained that the Business School had not dealt with such an application previously. Witness T was advised that the term supporting statement was misleading and it was fine for the Business School to provide a statement which was not.

138. A draft of the statement was prepared between 12 and 29 April, following Witness Q's return from leave. On 30 April 2024, the Business School submitted its statement confirming that it did not support the claimant's application due to the concerns regarding the claimant's teaching which had been raised with her consistently over previous years.
104. The claimant's colleague whom she relies on in her victimisation complaint, submitted her ET1 claim on 17 April 2024, naming the claimant as someone who has submitted a claim against the same respondent arising out of similar facts. Whilst we were not provided the details of the colleagues grounds of claim, we were provided emails relating to her grievance complaint which set out that her claims related to direct sex and maternity discrimination. The claimant did not provide any evidence pointing to the contrary and as such we find that the colleague's claim related to separate issues that did not overlap with the claimants.
105. The annual review paperwork for PRG was completed and signed off by the Dean on 2 May 2024. The report detailed the reasons why it was considered the claimant was not meeting expectations in the relevant areas. The report also highlighted the difficulty the school had in obtaining OH advice and as a result not being able to consider when looking at any support or adjustment that the claimant might need. The report was sent to the claimant, but she refused to sign given she did not agree with the content.
106. With regard to module leadership, the report set out that there had been a consistent pattern of failure to deliver modules to the sufficient standard. The report set out that this was evidenced by failure to provide online module pages in a timely manner, concerns in regards to time taken to respond to programme

teams and student questions, failure to manage assessments as communications to students was left too late in the module and failure to mark in a timely fashion and to the expected standard.

107. On 10 May 2024, the claimant submitted a grievance raising concerns that as a result of her support for a probationer colleague in bringing a Tribunal claim against the University for discrimination, the Business School had withdrawn its support for the claimant's teaching excellence course partial exemption. Further, this withdrawal of support was to push her into a terminal year at the University, and which resulted in an adverse recommendation to the PRG.
108. On 22 May 2024, the claimant is sent a letter acknowledging her grievance and advising that an external investigator had been appointed as investigating officer.
109. In a letter dated 18 June 2024, PRG advised the claimant that after careful consideration, it was in agreement with the adverse recommendation made by the Business School. This decision was subject to the opportunity for the claimant to make representations, which she subsequently requested.
110. A representation meeting was held on 26 June, following which, the PRG sent the claimant an outcome letter dated 1 July 2024, confirming its decision that it remained in agreement with the School that the claimant had not yet met the standard required for completion of probation. The claimant was given notice of termination date of 30 June 2025 with a rescind clause added, such that it would allow the claimant to complete within the notice period provided all probationary requirements were met. The claimant was notified of her right to appeal to the Senate Committee, which she subsequently undertook.
111. In a letter dated 10 July 2024, the Claimant's GP, Dr Asad, reports that the Claimant has suffered from severe depression for the last few years which has adversely affected her daily life causing significant anxiety with panic attacks and sleep disturbances.

112. On 5 August 2024, the investigating officer submits his grievance report. The investigating officer set out the evidence indicated that it was the Business School's concerns over the claimant's teaching practice rather than any link to her support for her probationer colleague's Tribunal claim that motivated the School's refusal to support her application.
113. The investigating officer also addressed a further grievance that had emerged following his interview with the claimant, which was that the Business School had indirectly discriminated against her by relying on student feedback, despite an awareness that this could be biased.
114. The investigator noted that there had been consistent concerns expressed over the claimant's teaching practice. He further noted that in the claimant's most recent report dated 2 May 2024, teaching concerns were expressed in the areas of her module leadership, cohort and feedback. In areas others than student feedback those concerns were expressed without the provision of supporting evidence. The investigator noted collegiality as a recent criticism from 2023 expressed by Witness Q as an inability or unwillingness to work constructively and collaboratively with others. The investigator commented that there was evidence that the claimant's mental health had deteriorated during the year (2023) and that this had impinged on her ability to fulfil her professional functions.
115. The investigator concluded that there was no evidence of any allowance having been made for potential gender or ethnicity prejudice or bias that might affect these scores. He concluded that such a reliance on student feedback in assessing the claimant's teaching practice may not have included the safeguards necessary to prevent such bias / prejudice and be unfair as a result.
116. The claimant submits her ET1 claim on 29 August 2024.
117. On 11 October 2024, the claimant is sent a grievance outcome letter informing her that the grievance panel had concluded that it was the Business School's concerns over the claimant's teaching practice, rather than any link to her

support for her colleague's Tribunal claim that had led to the School refusing to support her application.

118. With regard to the indirect discrimination complaint relating to student feedback, the grievance panel concluded that the Business School had relied on student feedback as just one element used to assess the claimant's teaching and that there was evidence that other measures of assessment, such as direct observation. It was therefore considered the use of student feedback as one of a few different measurements to assess teaching performance was appropriate. The panel also concluded there was evidence that the claimant had been provided with appropriate, balanced feedback and support in relation to her teaching development.
119. The claimant appealed the grievance outcome and on 9 December 2024, she was sent a grievance appeal outcome letter advising that the Appeal panel had concluded there was no evidence of unfair treatment by way of victimisation due to supporting a colleague's Tribunal claim. With regard to the potential for gender and ethnicity bias to affect student feedback scoring, the panel found the minimum score which the School expects is a trigger to put in place additional support. The panel accepted the School's position that student feedback is not considered in isolation and is just one element that is looked at when considering and assessing teaching performance.

Statistical analysis & Academic research

120. In support of her indirect discrimination complaint, the claimant relies on academic research from a number of authors, these being; Kerry Chavez & Kristina Mitchell (2020), Troy Heffernan (2022) and Zambrano (2023) which explore bias in student evaluations. The authors conclude that there is evidence that evaluations can be "*skewed against*" women and minority academics and can be "*influenced by racist and sexist prejudices*". We were provided copies of the research articles in the claimant's supplementary hearing bundle.

131. The respondent acknowledges at paragraph 6d, of the Student Module rating policy that *“Survey respondents are prone to human bias which may include prejudice. The current research literature regarding student surveys of teaching performance suggests that results can include bias relating to gender, ethnicity, personal traits, the perceived status of staff subject, discipline and modes of delivery”*.
121. Whilst the respondent accepts that a risk of bias exists, it relies on evidence of statistical analysis carried out by the Pro Dean for research, engagement which concludes that neither gender nor ethnicity exert more than a very small impact on student feedback.
122. As part of its Athen Swan application the Business School undertook an analysis for the academic year 2023-2024 on data held on feedback scores from students as regards the Business School’s male and female teaching staff. The summary analysis concluded that teaching scores were very similar for male and female teaching staff, differing by 0.06 points on a 5 point scale. The respondent contends that statistical difference is not significantly different from zero.
123. For the purpose of these proceedings, the respondent repeated this statistical analysis to assess the impact of ethnicity, using the same 2023/204 dataset. We were provided copies of the data analysis in the main hearing bundle and appended to witness Q’s statement.
124. For ethnicity, the data shows a difference of 0.16 points on a 5 point scale, with white employees scoring slightly higher than non-white employees. The respondent concluded that the difference was statistically significant as it was unable to rule out an effect of zero. Therefore potential moderating factors were considered to try and understand whether race was generating the difference or whether there could be other factors at play.
125. Moderating factors considered, included seniority or grade differences, this produced a difference of 0.08 and group membership produced a difference of

0.03. The respondent contends that this difference was not significantly different from zero.

126. The same moderating factors analysis was also then considered for the gender data. The gender effect was unchanged with the effect remaining small and not significantly different from zero.
127. The claimant submits that there is a lack of robust testing of the statistical analysis produced by the respondent on race and gender. She submits that robustness tests are essential to confirm the reliability and statistical significance of empirical findings and without such tests any conclusions drawn from data are inconclusive and not credible.

Disability Impact Statement

128. The claimant produced a disability impact statement on 27 December 2024. In summary the claimant describes the impact of severe depression on her daily life between March 2022 and December 2024. The claimant describes her symptoms as including low mood, poor sleep, memory disturbances, low appetite and panic attacks.
129. The claimant provides very little detail of date periods of the impact on her day to day activities. Her contention appears to be that she suffered the impact, she outlines from March 2022 through to December 2024.
130. In respect of day to day activities the claimant states the following:
- i) she finds it *“difficult to manage day to day tasks”*;
 - ii) She describes her sleep as being severely impacted and on average getting about 3 hours sleep each night;
 - iii) She states she suffers from memory disturbances due to disturbed sleep, which has severely impacted her research projects;
 - iv) She describes blackout type situations where she states she can't remember anything;

- v) She describes low appetite, sometimes going all day without eating;
- vi) She describes experiencing high levels of anxiety with everyday tasks, which take her longer, such as getting dressed or eating meals;
- vii) She describes experiencing high levels of anxiety with repetitive tasks, such as marking exam papers and repeated seminars.

Relevant Law

Disability

131. **Section 6 of the Equality Act 2010** provides, so far as material, that:

*"(1) A person (P) has a disability if—
(a) P has a physical or mental impairment, and
(b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities"*

132. **Schedule 1 paragraph 2 of the Equality Act 2010 Act** states:

*"(1) The effect of an impairment is long-term if—
(a) it has lasted for at least 12 months,
(b) it is likely to last for at least 12 months, or
(c) it is likely to last for the rest of the life of the person affected.
(2) If an impairment ceases to have a substantial adverse effect on a person's ability to carry out normal day-to-day activities, it is to be treated as continuing to have that effect if that effect is likely to recur...."*

133. **Schedule 1, paragraph 8 of the Equality Act 2010**, states:

*"(1) This paragraph applies to a person (P) if—
(a) P has a progressive condition,
(b) as a result of that condition P has an impairment which has (or had) an effect on P's ability to carry out normal day-to-day activities, but
(c) the effect is not (or was not) a substantial adverse effect."*

(2) P is to be taken to have an impairment which has a substantial adverse effect if the condition is likely to result in P having such an impairment."

134. The burden of proof is squarely on the claimant to show that he satisfies the definition under s6 EqA 2010: **Royal Bank of Scotland plc v Morris EAT 0436/10**.
135. The question before the tribunal is not whether the claimant is disabled at the date of the hearing, but whether he was disabled within the meaning of the Act at the date of the alleged discriminatory act: **Cruickshank v VAW Motorcast Ltd [2002] ICR 729**.
136. In **All Answers v W [2021] IRLR 612**, the Court of Appeal highlighted, the key question for the Tribunal is whether:

"As at the time of the alleged discriminatory acts, the effect of an impairment is likely to last at least 12 months. That is to be assessed by reference to the facts and circumstances existing at the date of the alleged discriminatory acts. A tribunal is making an assessment, or prediction, as the effect of an impairment was likely to last at least 12 months from that date. The tribunal is not entitled to have regard to events occurring after the date of the alleged discrimination to determine whether the effect did (or did not) last for 12 months..."

137. 'Likely to' has been interpreted by the House of Lords as meaning "*could well happen*": **SCA Packaging Ltd v Boyle [2009] IRLR 746**.
138. The Tribunal is looking at whether the impairment in question has had a "*substantial*" effect, which s.212(1) EqA 2010 defines as "*more than minor or trivial*". In considering the long-term question, it is necessary for the Tribunal to determine whether the *effect* of the impairment is long-term, noting it is not the impairment that has to be long-term, but the substantial adverse effect of the impairment: **Royal Borough of Greenwich v Syed UKEAT/0244/14**.

139. The Tribunal must consider what the Claimant cannot do, not what he can do, ***Paterson v Commissioner of Police of the Metropolis [2007] ICR 1522, EAT.***

S.15 EQA 2010 - Discrimination arising from disability

140. *Section 15 of the Equality Act 2010 provides;*
(1) A person (A) discriminates against a disabled person (B) if—
(a) A treats B unfavourably because of something arising in consequence of B's disability, and (b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.
(2) Subsection (1) does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability.
141. In ***Gallop v Newport City Council [2013] EWCA Civ 1583***, the Court of Appeal highlighted that it is vital for a reasonable employer to consider whether an employee is disabled, and form their own judgment on this issue.
142. The burden of proof in terms of knowledge is on the employer to prove that it was unreasonable for them to have the required knowledge. This is a question of fact for the Tribunal. The burden is on the employer to show it was unreasonable to have the required knowledge.
143. The EHRC Employment Code provides that employers must do all they can reasonably be expected to do to find out whether a worker has a disability. What is reasonable will depend on the circumstances. This is an objective assessment. When making enquiries about disability, employers should consider issues of dignity and privacy and ensure that personal information is dealt with confidentially.

144. S15 (2) provides that the discrimination will not arise if A shows they did not know and could not reasonably be expected to know that B had a disability.
145. Failure to enquire into a possible disability is not by itself sufficient to vest an employer with constructive knowledge. It is also necessary to establish what the employer might reasonably have been expected to know had it made such an enquiry: **A Ltd v Z [2020] ICR 199**, §23.
146. Crucially, however, the employer must have the requisite actual or constructive knowledge at the time of the impugned treatment; knowledge acquired only at a later point is not sufficient: **Stott v Ralli Ltd [2022] IRLR 148**, §68.
147. In **Gallacher v Abellio Scotrail Ltd UKEAT/0027/19** it was found by the Tribunal (and upheld by the EAT) that whilst the claimant had provided some information to their manager as to their conditions, there was none of the detail required as to any substantial disadvantage they suffered by reason of disability, its effects on their day-to-day activity or the longevity of those effects for the purpose of s.6 EqA 2010.
148. In order for a Claimant to succeed in a claim under section 15, the following must be made out:
- a. there must be unfavourable treatment;
 - b. there must be something that arises in consequence of the Claimant's disability;
 - c. the unfavourable treatment must be because of (i.e. caused by) the something that arises in consequence of the disability;
 - d. the alleged discriminator cannot show that the unfavourable treatment is a proportionate means of achieving a legitimate aim.
149. Useful guidance on the proper approach was provided by Mrs Justice Simler in the case of ***Pnaiser v NHS England* [2016] IRLR, EAT**: “A Tribunal must first identify whether there was unfavourable treatment and by whom: in other

words, it must ask whether A treated B unfavourably in the respects relied on by B. No question of comparison arises. The Tribunal must determine what caused the impugned treatment, or what was the reason for it. The focus at this stage is on the reason in the mind of A. An examination of the conscious or unconscious thought processes of A is likely to be required, just as it is in a direct discrimination case. Again, just as there may be more than one reason or cause for impugned treatment in a direct discrimination context, so too, there may be more than one reason in a s.15 case. The “something” that causes the unfavourable treatment need not be the main or sole reason, but must have at least a significant (or more than trivial) influence on the unfavourable treatment, and so amount to an effective reason for or cause of it.”

150. Motives are irrelevant. The focus of this part of the enquiry is on the reason or cause of the impugned treatment and the Respondent’s motive in acting as he or she did is simply irrelevant.
151. The Supreme Court considered this claim in ***Williams v Trustees of Swansea University Pension and Assurance Scheme [2018] IRLR 306*** and confirmed that this claim raises two simple questions of fact: what was the relevant treatment and was it unfavourable to the Claimant?’ ‘Unfavourable’ must be given its normal meaning; it does not require comparison, it is not the same as ‘detriment’. A Claimant cannot succeed by arguing that treatment that is in fact favourable might have been even more favourable. The court confirmed that demonstrating unfavourable treatment is a relatively low hurdle.
152. In ***Chief Constable v Homer 2012 ICR 704*** Baroness Hale stated that to be proportionate a measure has to be both an appropriate means of achieving the legitimate aim and reasonably necessary in order to do so. She approved earlier authorities which emphasised the objective must correspond to a real need and the means used must be appropriate with a view to achieving the objective and be necessary to that end. It is necessary to weigh the need against the seriousness of the detriment.

153. The question is whether the action is, objectively assessed, a proportionate means to achieve a legitimate end. The employer has to show (and the onus is on the employer to show) that the treatment is a proportionate means of achieving a legitimate aim. The Tribunal can take account of the reasonable needs of the Respondent's business but the Tribunal must make its own judgment as to whether the measure is reasonably necessary. There is no room for the range of reasonable response test.

Duty to make adjustments

154. Sections 20 & 21 of the Equality Act 2010 provides;

Where this Act imposes a duty to make reasonable adjustments on a person, this section, sections 21 and 22 and the applicable Schedule apply; and for those purposes, a person on whom the duty is imposed is referred to as A.

The duty comprises the following three requirements:

- (1) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage;
- (2) The second requirement is a requirement, where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage;
- (3) The third requirement is a requirement, where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid.

Section 21 Failure to comply with duty

155. A failure to comply with the first, second or third requirement is a failure to comply with a duty to make reasonable adjustments.
- (2) *A discriminates against a disabled person if A fails to comply with that duty in relation to that person.*
156. It is not necessary to prove that the potential adjustment will remove the disadvantage; if there is a “real prospect” that it will, the adjustment may be reasonable. In ***Romec v Rudham [2007] All ER (D) 206, EAT***: HHJ Peter Clark said that it was unnecessary to be able to give a definitive answer to the question of the extent to which the adjustment would remove the disadvantage. If there was a 'real prospect' of removing the disadvantage it 'may be reasonable'.
157. In ***Cumbria Probation Board v Collingwood [2008] All ER (D) 04 (Sep), EAT***: HHJ McMullen said that 'it is not a requirement in a reasonable adjustment case that the claimant prove that the suggestion made will remove the substantial disadvantage'.
158. In ***Leeds Teaching Hospital NHS Trust v Foster UK EAT/0552/10, [2011] EqLR 1075***, the EAT said that, when considering whether an adjustment is reasonable, it is sufficient for a tribunal to find that there would be 'a prospect' of the adjustment removing the disadvantage.

Indirect discrimination

159. Sections 19 of the Equality Act 2010 provides;
- (1)*A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.*

(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—

(a) A applies, or would apply, it to persons with whom B does not share the characteristic,

(b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,

(c) it puts, or would put, B at that disadvantage, and

(d) A cannot show it to be a proportionate means of achieving a legitimate aim.

160. All four conditions in section 19(2) must be met before a successful claim for indirect discrimination can be established. That is, there must be:

- i) a PCP which the employer applies or would apply to employees who do not share the protected characteristic of the claimant;
- ii) that PCP must put people who share the claimant's protected characteristic at a particular disadvantage when compared with those who do not share that characteristic;
- iii) the claimant must experience that particular disadvantage;
- iv) the employer must be unable to show that the PCP is justified as a proportionate means of achieving a legitimate aim.

161. For a case of indirect discrimination to succeed, there must be both personal disadvantage and group disadvantage to those who share their protected characteristic(s). The correct test for this is not whether there was an adverse effect on the group, but whether a seemingly neutral requirement has a discriminatory impact ***Eweida v British Airways Plc [2010] EWCA Civ 80***.

162. In doing so, the Claimant does not need to prove why a PCP is having the effect of disadvantaging the group they belong to, they just have to prove that the PCP was having that effect. Also, the Claimant does not need to prove that all people belonging to the comparison pool are in fact disadvantaged. Some will be some won't be. What is for the Claimant to simply prove on balance that the

group is particularly disadvantaged as a result of the PCP whether or not it actually affects all of that group ***Essop and Naeem v Home Office (UK Border Agency) and Secretary of State for Justice [2017] UKSC 27.***

163. Both the group disadvantage and the personal disadvantage must be caused by the application of the PCP rather than because of any particular characteristic. In **Essop and Naeem SC** the court said at paragraph 25:

“Direct discrimination expressly requires a causal link between the less favourable treatment and the protected characteristic. Indirect discrimination does not. Instead it requires a causal link between the PCP and the particular disadvantage suffered by the group and the individual.

164. In **Dziedziak v Future Electronics Ltd EAT 0271/11**, the EAT stated that the matters that would have to be established before there could be any reversal of the burden of proof would be, first, that there was a PCP, secondly, that it disadvantaged generally, and thirdly, that what was a disadvantage to the general created a particular disadvantage to the individual who was claiming. Only then would the employer be required to justify the PCP.

165. In **Dobson v North Cumbria Integrated Care NHS Foundation Trust 2021 ICR 1699, EAT**, Mr Justice Choudhury commented that a claimant will not always be able to establish group disadvantage on the basis of his or her own evidence. This is because individual disadvantage is not necessarily inextricably linked to group disadvantage.

Discussion & Conclusions

Claimant's Anonymity Application

166. In her application for anonymity dated 17 June 2025, the claimant stated that she remained under active medical care and crisis team support and continued to take prescribed medication for depression.

167. The claimant sets out 3 Separate basis for her application:

- 1) The claimant states that the public disclosure of her name and sensitive personal details relating to her mental health will cause a significant deterioration in her condition including an exacerbation of suicidal ideation;
- 2) The claimant submits that a further barrier to justice is that as she is representing herself and the respondent is represented by a senior barrister, there is a power imbalance;
- 3) The claimant states that if her identity is made public this will cause her reputational harm and ruin her career in that it will destroy any residual opportunity to work in research, teaching or public facing academia roles.

168. The claimant seeks anonymisation of her name and removal of references to her medical condition and suicidal ideation. In brief submissions when I asked the claimant to clarify whether she was seeking the hearing be held in private, she advised that she had not really considered this but if this was possible she would request this as she would be anxious about anyone sitting in court and listening to evidence pertaining to her mental health.

169. The claimant repeatedly informed the Tribunal that she would unlikely be able to proceed with her claim absent an anonymity order being granted by the Tribunal.

158. Mr Beever on behalf of the respondent reminded the Tribunal that the principles of open justice were engaged and those principles were of paramount importance. There was a need for hearings to take place in public, and that justice must be seen to be done as well as done. The burden of establishing any derogation from the fundamental principle of open justice or full reporting lies on the person seeking that derogation. It must be established by clear and cogent evidence that harm will be done by reporting to the privacy rights of the person seeking the restriction on full reporting so as to make it necessary to

derogate from the principle of open justice.

159. Mr Beever submitted the fact that the claimant has chosen to bring the claim must have come with an acceptance that the allegations would become public.
160. Mr Beaver referred us to the case of **F v J [2025] EAT 34**. In this case, the ET refused to grant the claimant an anonymity order, *finding that he had failed to demonstrate that his fears were founded on objective evidence*; and that in any event, his subjective concerns were not well founded. The EAT held that the Tribunal made an error of law in refusing to grant the Claimant anonymity in his disability discrimination claim, despite the Claimant's wish to keep his disability private.
161. We noted similarities in the present case, including that the claimant stated that he would not proceed with his claim absent an anonymity order being granted by the ET. The EAT held that the ET set too high a bar for F to surmount, rather, the correct test has a lower evidential threshold. All that F had to prove is that he had a reasonable foundation for his beliefs.
162. Mr Beaver reminded us that it would be an error to demand medical evidence, it would place too high a burden on the claimant, nevertheless he reminded us there needed to be a reasonable foundation for the claimant's beliefs.
163. With regard to the claimant's three basis for the application, Mr Beever submitted in respect of self-representation (specifically the power imbalance), and secondly reputational damage and harm to her career, the claimant has not submitted sufficient, cogent evidence of harm beyond her fear of this happening. Mr Beaver accepted that the Tribunal may find that the claimant's fear of these things happening might be deemed cogent evidence.
164. With regard to the power imbalance, we were in agreement with Mr Beever that the Tribunal is well versed in addressing imbalance and one side being represented and the other not, is nothing out of the ordinary. The claimant presented no clear or cogent evidence that suggests the Tribunal should restrict

publicity on this basis.

165. Mr Beever submitted this left only mental health, which he accepted was a serious issue for the Tribunal to have to work through.
166. We concluded the burden is on the claimant to establish that there are grounds for derogating from the principle of open justice. Rule 49 (1) Employment Tribunal Rules of Procedure 2024, provides that “*The Tribunal may, on its own initiative or on the application of a party, make an order with a view to preventing or restricting the public disclosure of any aspect of proceedings so far as it considers necessary in the interests of justice or in order to protect the Convention rights of any person*”. Rule 49 (2) provides that “*in considering whether to make an order under this rule, the Tribunal must give full weight to the principle of open justice and to the Convention right to freedom of expression*”.
167. This is a case where the Claimant’s rights under Article 8 ECHR (the right to private and family life) are clearly engaged. The main basis of her application for anonymity revolves around her private sensitive mental health condition. Having established this, we went on to consider whether the claimant has established by clear and cogent evidence that harm will be done to her convention rights by reporting, so as to make it necessary to derogate from the principle of open justice.
168. The claimant states that the public disclosure of her name and sensitive personal details relating to her mental health will cause a significant deterioration in her condition including an exacerbation of suicidal ideation. Whilst the claimant has not obtained direct medical evidence on the point of publicity exacerbating her mental health we find this is not fatal to her application.
169. The medical evidence presented by the claimant sets out a clear and consistent history in respect of depression since at least April 2022. Her symptoms have been exacerbated at various points reported by her to medical practitioners as

being due to issues in the workplace. She remains on medication as a result of her condition. The claimant has reported suicidal ideation to her GP and OH on a number of occasions since 2022. In our conclusions, the Claimant's indication that in the absence of any anonymity order, she is likely to withdraw her claim, also supports the necessity for an order.

170. In light of these findings we find that the claimant has established a reasonable foundation for her belief that harm will be done to her privacy rights by reporting. Further, whilst the claimant has not presented any direct evidence of reputational damage or damage to her future career prospects, we find the severity of her mental health condition and the sensitivity of her medical records provide a reasonable foundation for her fears of stigmatisation in the labour market.
171. On the facts before us in this case, we concluded that the open justice principle would not be undermined by the granting of an anonymity order. We conclude it is also necessary to anonymise the respondent to ensure the claimant's identity is protected as there is a real risk of identification of the claimant should the University be identified. We conclude the identity of the parties is not critical to the public understanding of the case and in any event, the Claimant's reasonable fears far outweigh the relatively minor interference with the open justice principle in this case.
172. With regard to the claimant's request that the hearing be conducted in private, if possible, she presented no clear or cogent evidence as to why this would be necessary to protect her convention rights. Such an order if granted would significantly impinge on the principle of open justice and without clear and cogent evidence being presented we are unable to conclude that the claimant holds a reasonable foundation for her belief, accordingly, we decline to make an order in this respect.
173. Further, having concluded that an anonymity order is appropriate in this case, we decline to additionally order redaction of references to the claimant's medical condition and/or suicidal ideation. This case primarily revolves around

issues of disability discrimination and the Tribunal will be required to scrutinise the respondent's actions in this regard. Removing references to these matters would create significant issues for the tribunal in explaining its decision, should such redactions be applied, we conclude this would detract from the public understanding of the case.

174. Ultimately, we concluded that the claimant's convention rights are adequately protected by anonymity in respect of the parties names and this is with the least interference to the principle of open justice.

Disability

183. The first matter that we turn to consider is whether the claimant was disabled as defined in s6 Equality Act 2010 "EQA". The burden is on the claimant to prove that she was disabled during the relevant time period (March 2022 to August 2024).
184. We considered firstly whether the claimant had a mental impairment, the claimant relies upon severe depression.
185. There is a formal diagnosis of depression, albeit set out in a short handwritten report dated 30 July 2022. In this report, Dr Unatti Kumar (consultant psychiatrist in India) opines that the claimant has been suffering from major depression since 15 July 2022, for which she was under the treatment of Dr Kumar.
186. With regard to the GP notes, depression is specifically referred to on at least three occasions. The first time it is referenced is in a letter from the claimant's GP dated 2 March 2023, where Dr Gechev confirms that the claimant's medical history records that she was seen for symptoms of depression in May 2022 and prescribed anti-depressants. Secondly, it is referenced in a letter dated 10 July 2023, where Dr Gechev confirms that the claimant was currently taking medication for depression. Thirdly, it is referenced in a letter dated 10 July 2024,

where Dr Asad, reports that the claimant has suffered from severe depression for the last few years.

187. On its own, without further supporting evidence, we may have been reluctant to accept Dr Kumar's diagnosis as evidence of mental impairment. However, we find the GP notes, whilst not diagnosis' in themselves, do corroborate and support Dr Kumar's diagnosis of depression. In light of these findings we conclude that the claimant had a mental impairment, which was severe depression.
188. We then went on to consider whether the impairment had a substantial effect on the claimant's day to day activities. Save for the claimant's disability impact statement produced in December 2024, there is very little reference to substantial effect in any other contemporaneous document, including the OH and GP records.
189. The OH report in May 2022 notes an "*improvement*" from April 2022 and the claimant being fit for work, at that time she was also discharged from OH. From a departmental referral in August 2022 it then took almost 10 months to get the claimant back for OH review in June 2023. At that point OH reports that the claimant was fit for work with temporary adjustment and recommended no teaching during Term 1. OH reports the claimant finding it difficult to focus on her work and undertake individual marking due to upsetting feedback. OH reports that the claimant's sleep is impacted and that she has reduced appetite which is affecting her day to day activities and work.
190. Between the OH report in May 2022 and March 2023, which stated C was fit for work, and her health had improved, there is no evidence to suggest that the claimant was suffering with issues relating to her mental health. OH had discharged her and by her own account the claimant stated her health had improved.
191. Between May 2022 and March 2023, there is also no further report GP notes or reports, which set out any issues that the claimant was experiencing with her mental health. The claimant continued to work throughout this period.

192. The only other evidence regarding substantial adverse effect is in the claimant's disability impact statement, which sets out that she was reliant on basic care needs from her family whilst she was in India between June 2022 to August 2022. We find this is inconsistent with the contemporaneous evidence from the time. In June 2022, in response to an email from her line manager, the claimant advises that she was not on leave whilst in India and was working full time, undertaking significant work tasks, which included work on 6-7 projects. In the email, the claimant does not set out any health issues or restrictions on her day to day activities.
193. In light of the contemporaneous evidence at the time, which includes direct evidence from the claimant herself, we reject the claimant's evidence in this regard and do not accept that there is sufficient evidence that she was experiencing a substantial adverse effect on her day to activities whilst she was in India.
194. Apart from her time in India in June to August 2022, the claimant's impact statement also does not specify dates or periods as to when she says her impairment was having a substantial impact on her day to day activities, as such it does not assist us greatly in this regard.
195. We find the position does change in terms of GP and OH evidence from around March 2023, where the GP and OH notes suggest a deterioration in wellbeing and evidence which supports a conclusion of substantial impact on day to activities. We repeat our conclusions at paragraph 189 in respect of the OH report from June 2023.
196. With regard to the GP's reports, the letter of 3 March 2023, sets out a deterioration in the claimant's mental health resulting in low mood, lack of sleep and suicidal ideation. The GP's letter of 10 July 2023 sets out that anonymous feedback had caused a deterioration in the claimant's mental health affecting her sleep and appetite. The letter also confirmed that the claimant was taking

medication for depression and asked that the claimant's situation be reviewed and support be arranged.

197. There are 2 further GP letters which set out impact on day to day activities. Firstly, in February 2024, Dr Hartley reports that the claimant is experiencing low mood, anxiety, sleep disturbance, sweats, memory disturbance, low appetite and blackout type moments.
198. Secondly, in a letter dated 10 July 2024, the Claimant's GP, Dr Asad, reports that the Claimant has suffered from severe depression for the last few years which has adversely affected her daily life causing significant anxiety with panic attacks and sleep disturbances.
199. During the relevant time period, it is notable that the claimant does not take any time off from work save for 2 months between 3 January 2024 and March 2024. The claimant also remains active in her external engagements, attending public events, radio and media interviews frequently. This continues in 2024, where there is evidence in June 2024 of the claimant attending networking event as a panelist at the Shard in London.
200. That said, we reminded ourselves the focus was on what the claimant could not do rather than what she could do. We conclude there is sufficient evidence the impairment was having a substantial adverse effect on the claimant from March 2023 through to August 2024.
201. We then moved on to consider whether the effects of the claimant's impairment were long term. There is consistent evidence from her GP from March 2023 of continuing impact and to a limited extent from OH in their June 2023 report. We conclude from March 2023, there was evidence that the effects of the claimant's impairment were likely to last for 12 months and by March 2024 had lasted for 12 months.
202. In summary, we conclude that the claimant was disabled, within the meaning of s.6 Equality Act from 2 March 2023 to August 2024.

Discrimination arising from disability

203. The Claimant alleges the Respondent had knowledge of her disability from 15 March 2022.
204. Having concluded that the claimant was disabled from 2 March 2023, we also conclude that this is the date that the respondent had knowledge of disability from. The GP letter of 2 March 2023 clearly set out that the claimant's mental health had deteriorated, that she was taking medication for depression and recommended support be provided to her. We conclude, if that was not sufficient for the respondent's to have acquired knowledge, it certainly should have prompted further enquiry.
205. We considered what the respondent, might reasonably have been expected to know, if it had made further enquiries. The claimant continued to struggle with her mental health as per the OH report in June 2023 and the further GP letter in July 2023. The OH report recommended adjustments to the claimant's duties in the form of no teaching during Term 1. The GP reports in February and July 2024 also continue in the same vein. In such circumstances, we conclude that the respondent could reasonably have been expected to know that the claimant had a disability from 2 March 2023.
206. The claimant alleges the 'something arising' in consequence of her disability is that she requires more time to complete certain tasks as a result of her disability. In summary these are to respond to the programme teams and student questions in a timely manner, to provide online module pages in a timely manner and to mark in a timely manner.
207. We find there is no objective evidence that the claimant needed more time to complete these tasks. There is no OH or GP reports during the relevant time period that refer to the claimant requiring more time. The claimant also does not tell the respondent at any point that she needs more time to do these things. In

contrast, whenever the claimant asked for teaching relief or an extension of time to mark she was granted this.

208. If we are wrong about that, we went on to consider whether the unfavorable treatment i.e. the adverse recommendation was in connection with the claimant taking longer to complete the tasks highlighted. We found earlier that the claimant met the definition of disability under s.6 EQA, from 2 March 2023 yet the matters that led to the adverse recommendation were evident as early as 2018 and certainly increasingly evident by February and March 2022, when a number of issues arose relating to the claimant's timeliness and collegiality. Between August 2021 and February 2022, the claimant failed to provide assessment criteria and was unresponsive when chased by the Programme Team. This latterly resulted in insufficient and late marks and feedback in February 2022. Further, the claimant's teaching and marking responsibilities ceased around January 2023 and therefore we agree with the respondent's submissions that the teaching and timely manner allegations cannot relate to any point in time after January 2023.
209. We find the claimant did not present any evidence to establish as an objective fact that there is a causal link. In those circumstances, we conclude there is insufficient evidence to prove that there is a causational link between the treatment and the something arising in consequence of the disability.
210. Even if we had found that the adverse recommendation was because of the something arising in consequence of the claimant's disability, we would have dismissed the claim on the basis that the unfavourable treatment was a proportionate means of achieving a legitimate aim.
211. The respondent relies on the legitimate aim of ensuring high quality teaching in addition to its obligation towards its students/consumers to provide high quality teaching. We find this to be a legitimate aim
212. We conclude the respondent acted in a proportionate manner in exercising its legitimate aim. The respondent treated the claimant in all respects as if she

was disabled and met all her requested adjustment requests when asked or when recommended based on OH advice. The issue of taking longer to complete tasks was only one element of the adverse recommendation which was based on broader assessment of the quality of teaching.

213. In his role, we find Witness Q was best placed to have oversight of consistency and fairness of approach to probationers and in respect of the claimant specifically. The claimant provided evidence directly to the PRG for them to take into account. The PRG assigned close readers who had access to all the probation reports over 5 years, who gave detailed consideration to the information before them. We find these were all matters that evidence the respondents actions were objectively justified.

Failure to make reasonable adjustments

214. The PCP the claimant relies on is that the respondent required her to take the same amount of time as persons without disabilities to complete the following tasks:
- i) to respond to the programme teams and student questions in a timely manner;
 - ii) to provide online module pages in a timely manner;
 - iii) to mark in a timely manner.
215. We find that there is no evidence that these were PCP's that were applied by the respondent.
216. Even if we had found that there was a PCP, we find the respondent did not know and could not reasonably have been expected to know that the claimant was likely to be placed at a disadvantage. There is no medical or OH evidence recommending anything in terms of a reasonable adjustment in this regard and there is no evidence from the claimant suggesting that disadvantage

217. The claimant suggests it would have been reasonable for the respondent to take the following steps to remove the disadvantage:
- (i) to provide the claimant with more time by an extra few days to complete the tasks;
 - (ii) not take into account non completion of these tasks;
 - (iii) teaching relief during Term 1;
 - (iv) moving a class from term 1 to Term 2;
 - (v) providing teaching and marking support;
 - (vi) have another person cover her lectures.
218. We conclude that the respondent did not know that the claimant required more time, the claimant did not request this herself and therefore it would not have been reasonable to expect the respondent to have taken this step.
219. Further, we concluded it would not be reasonable for the respondent not to take into account non-completion of tasks as these relate to the core role of the claimant as a teacher.
220. We found the claimant did receive teaching relief in Term 1 in 2022. She also had the assistance of a Graduate Teaching Assistant as well frequent support to assist with marking and assessment. The claimant's teaching and marking was adjusted for Autumn 2022 and again in January 2023. Following this point, she did not undertake any teaching or marking at all.
221. With regard to a class being moved from Term 1 to Term 2, we conclude this was not a reasonable step for the respondent to take. The claimant made the request on or around 20 July 2022, when timetable and student interactions had been completed. The respondent considered it unfeasible in the circumstances to make the wholesale change of term at that point. In light of the timing of the request and the point that the respondent was at in terms of the teaching timetable, we agree that this would not be a reasonable adjustment.

222. We find on each occasion the claimant requested support, this was provided, for example with the transfer of marking or the removal of teaching. The respondent pro-actively sought OH support and recommendations, however, it was the claimant who consistently delayed appointments and provided very little information to the respondent in respect of any adjustments she may have required.
223. In summary, the claimant's reasonable adjustments claim is dismissed in its entirety.

Indirect Discrimination

224. The claimant submits that the respondent had a PCP, which was a probation requirement to achieve a module rating of 3.5 or higher based solely upon student module feedback and without taking into account prejudices and biases of students.
225. We found earlier at paragraph 25 that student feedback is one of the factors that is considered when assessing probationary performance, however, there is no requirement to achieve a score of 3.5 or higher. If such a rating or lower is achieved, this triggers further review and investigation. The claimant presented no evidence or provided any clarification in practical terms to establish what she means by *"taking into account"*. We find the respondent did take *"potential biases"* into account when it did not act solely on the scores but instead used it as a basis for investigating further. In light of these factors, we conclude that the alleged PCP is not made out.
226. Even if we had accepted that there was a PCP in existence, we would have rejected the claimant's claim for the reasons we set out below.
227. The burden of proof is on the claimant. She presented no evidence of group or individual disadvantage.
228. With regard to group disadvantage, the claimant points to academic research that indicates a potential for bias. The respondent accepts that there is a

debate, which is controversial and there is a risk/ potential of disadvantage. We agree with the respondent's submissions in relation to this and find there is no room for "judicial notice". We find that the academic data points to potential bias, however, the research does no more than establish a risk/potential of disadvantage.

229. The evidence presented by the respondent in respect of the Athena Swan data on gender and the race data analysis both provided actual data that the risk/potential for prejudice does not arise in any significance in the Business School. We accept that there could be reliability issues with statistics, however, in this case the respondent ventured a step further and considered moderating factors repeating its analysis and thereby to some extent testing robustness. In such circumstances, we do accept the respondent's evidence in this regard and find this further negates the claimant's evidence of potential group disadvantage. Irrespective of our findings in respect of the statistical analysis, we reminded ourselves that the burden of proof remains with the claimant and she did not satisfy this.
230. With regard to disability, there is no evidence that the students were at any point aware of the claimant's disability. As such, we find the evidence in this regard does not enable the claimant to establish group disadvantage.
231. There is only one instance of student feedback in 2021, related to protected characteristics. The claimant did not point to any further examples despite being given the opportunity to do so. We conclude, this single example of individual disadvantage cannot safely provide evidence of group disadvantage.
232. With regard to individual disadvantage, the respondent invites us to find that the reason why the claimant achieved the student feedback was because of her performance and not related to her protected characteristics.
233. In the claimant's case she had a consistent history of low scores placing her at the second worst score of 1000 plus modules. Given, the average score in the Business School was 4.4, the benchmark of 3.5 was itself an indicator of poor

performance. The actual data provided by the respondent suggests little or no difference of statistical significance, this being 0.06 – 0.16 variation on a score in the scale between 0-5. For these reasons we conclude that the claimant achieved the student feedback that she did because of her performance rather than this being related to any protected characteristics.

234. Even if we had found that the claimant had been indirectly discriminated against, we would still have rejected her claim on the basis that taking into account student feedback was objectively justified by the respondent.
235. The respondent relies on the legitimate aim to take into account the students' view of and satisfaction with, the quality of teaching given that they are recipients of that teaching and legitimately expect the highest quality of teaching as well as the fact that the success of the respondent depends on the satisfaction of the students.
236. We conclude that it is a legitimate aim to take into account student views both in terms of student satisfaction and teaching improvement. The respondent's Student Module Feedback Policy expressly highlights and accounts for the potential arising of risk of bias. Low scores were used as a trigger for module development. The respondent acted proportionately, it did not act on consistent low scores alone as the Feedback Policy but identified through investigation many ways in which the claimant had failed to deliver teaching and module leadership to a sufficient standard.
237. The respondent was fully entitled to act on a consistent pattern of underperformance as was evident in the claimant's case. We find the respondent did consider the qualitative feedback rather than just focusing on the quantitative figure. Qualitative feedback including comments around starting lectures on time and loading slides after lessons were objectively assessed by the respondent, we find this served to reduce the risk of bias.
238. In summary, the claimant's claims of indirect sex, race and disability discrimination are dismissed.

Victimisation

239. The respondent accepted and we find that 3 out of the 4 acts relied on by the claimant were protected acts. These being the grievance of 20 June 2023, the meeting with the HR Director on 5 March 2024 and the grievance of 10 May 2024.
240. The respondent disputes that the employment tribunal claim brought by the claimant's colleague in April 2024, which named her was a protected act. The claimant is named in her colleague's ET1 form as a multiple claim on the basis that she is also bringing a separate claim against the respondent arising from the same or similar circumstances.
241. Whilst we were not provided the factual details in respect of the colleague's claim, the claimant accepted that her colleague's claim related to sex and maternity discrimination. The respondent's evidence which was not disputed by the claimant was that whilst the claimant's colleague was a probationer, in contrast to the claimant her concerns related to research rather than teaching and to her maternity situation. We find by simply being named in her colleague's claim, the claimant has not done anything that fits the definition of a protected act under s.27 Equality Act 2010.
242. With regard to the detriments, the respondent admits and we find that all three pleaded acts amount to detriments. We find that the respondent did not withdraw its support of the claimant's partial exemption application in respect of the teaching excellence course exemption. A withdrawal of support suggests that support had been indicated previously, however, we find that this is not borne out by the evidence. There is no evidence that the respondent had ever indicated its support, that appears to be the claimant's interpretation of her line manager's email, who had simply described the claimant's application as "good" following amendments she had made after speaking to her line manager and mentor. There is absolutely no indication within the email from the claimant's line manager that he would support a partial exemption.

243. With regard to causation, we considered each detriment separately and concluded that none of the detriments was on the grounds of any of the protected acts. We set out below, the reasons why we reached this conclusion.

Teaching Excellence Course – Partial Exemption

244. With regard to the respondent not supporting the claimant's teaching excellence course partial exemption. Firstly, there is no evidence to support the claimant's assertion that the respondent ever encouraged or agreed that the claimant should gain partial exemption. We repeat paragraphs 101 and 102 of our findings, where we found there was no evidence that the claimant's line manager and mentor had agreed the claimant qualifies for exemption. Secondly, despite being encouraged and reminded over the course of 4 years the claimant did nothing to commence the course until embarking on a workshop in November 2023.
245. We agree with the respondent's submissions that it would have been inconsistent for the respondent to support the claimant's application in light of their view that there was evidence of significant failings in the claimant's teachings, which were consistently highlighted to her. The May 2023 annual probation review, which would have been the review closest in time to the claimant commencing the November workshop set out concerns around the claimant's teaching, describing "*a consistent pattern of failure to deliver modules to the required standard*" and student feedback module scores being significantly below standards.
246. We find it remarkable that the claimant would think that the respondent would be supporting her obtaining a partial exemption in such circumstances. In January 2024, the claimant's line manager and mentor also set out concerns to her regarding her teaching and her line manager produces a timeline/chronology of concerns for Witness Q in advance of the March 2024 annual review, where the claimant was advised that it will be an adverse recommendation.

247. We find that there was confusion and ambiguity on the part of the respondent around the purpose of providing content for the supporting statement. The respondent could have been clearer with the claimant once it became aware of the claimant's application which she provided on 7 March 2024 and informed her that it would not be providing a "supporting" statement. That said, we accept that the respondent was not familiar with the process in terms of exemptions and this was the first time that it had been asked to provide a supporting statement. We find no ulterior motive in the respondent's actions rather uncertainty and confusion in respect of a process it had not previously come across.
248. Witness Q informed the claimant on 7 March 2024 that the Business School would be submitting an adverse recommendation. The statement was drafted between 12-29 April and sent to the claimant on 30 April. Witness Q sets out clear and detailed reasons as to why the respondent did not support the exemption and why it felt the claimant would benefit from completing the course in its entirety to aid her development and meet probation expectations. We find this overwhelmingly supports our conclusion that the partial exemption was not supported for all the reasons highlighted in the statement provided by Witness Q.
249. There is no evidence that the respondent's actions in not supporting the partial exemption had anything at all to do with any of the protected acts.

Adverse recommendation and notice of failure of probation

250. With regard to timings, an adverse recommendation only becomes relevant in the final year of probation and therefore it can only have arisen in the claimant's case in the probation cycle of 2024. There are documented concerns with the claimant's teaching which are evident from her first annual probation review in April 2019 and in each annual review thereafter, this predates all protected acts.

251. The claimant's evidence to the Tribunal was that collegiality was referenced for the first time in 2024. We find the evidence does not support this assertion. We found earlier at paragraph 102 that the claimant's line manager specifically commented to her in a meeting in January 2023 that she needed to improve her collegiality. The importance of maintaining collegiate relationships with Group and Programme teams is also specifically mentioned in the claimant's May 2023 probation review.
252. We conclude there is no evidence that the respondent's actions in producing an adverse recommendation and giving notice of failure of probation had anything at all to do with any of the protected acts. We find the actions were undertaken based on compelling and detailed documentation before the respondent of significant teaching concerns.
253. In summary, the claimant's victimisation claims fail in their entirety.

Time Limits

254. Regarding time limits as we have not found any of the complaints proven, this issue in effect falls away and we did not go on to consider this.

**Approved on : 1 October 2025
Employment Judge Akhtar**

