



## **EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 4103957/2024**

**Held in Glasgow on 22, 23, 24, 25, 28, 29 & 30 April 2025  
& 18, 19, 20 & 24 June 2025**

**Employment Judge S MacLean**

**Ms J Lota**

**Claimant  
In Person**

**City Property (Glasgow) LLP**

**Respondent 1,2  
Represented by:  
Mr S Miller -  
Solicitor Advocate**

### **JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The judgment of the Employment Tribunal is that the claims of discrimination, victimisation, unfair dismissal and unauthorised deduction from wages are dismissed.

### **REASONS**

#### **Introduction**

1. The claim includes allegations of direct race discrimination, harassment related to race, victimisation, unfair dismissal, unpaid holiday entitlement and unlawful deduction from wages. The respondent admits that the claimant was dismissed but asserts that the reason was gross misconduct and that the dismissal was fair. All other aspects of the claim are denied in their entirety. A time bar issue had been reserved for determination at the final hearing.
2. Although the claimant was a litigant in person at the hearing, she had previously been legally represented. During that period, a list of issues was prepared and agreed. These issues were revisited and discussed at the outset of the hearing, during which the parties helpfully agreed a joint list. The issues were addressed during submissions and are considered in the deliberations below.

3. The claimant provided evidence on her own behalf. Harjinder Gharyal, divisional director, Clyde Metro also gave evidence in her support. For the respondent evidence was presented by George Gordon (retired group manager), Joanne McDowall (asset manager), Allan McDonald (asset maximisation manager), Suzanne Gillespie (valuations and disposals manager), Marc Canning (head of investment) and Pauline Barclay (managing director).
4. I have set out the findings in fact that are essential to my reasoning and to an understanding of key aspects of the evidence. I took into account the written submissions during my deliberations. The list of issues and the points raised in submissions have been addressed within the context of the factual findings, the relevant legal framework, and the application of the law to those facts.

### **Findings in fact**

1. The claimant is of Indian descent. She holds a BA (Hons) in International Marketing and an MSc in Real Estate.
2. Around 2021, a service review was underway. During this period, George Gordon (professional services group manager) and Suzanne Gillespie (then interim valuations manager) interviewed the claimant for a temporary position supporting the valuations team. At that time, there was no graduate rotation policy in place.
3. The claimant was employed by the respondent under a contract of employment dated 28 September 2021 in a temporary capacity as a trainee surveyor (temporary). The contract was due to expire on 28 September 2022.
4. The claimant chose to pursue qualification as a chartered surveyor, a process that involves completing the Assessment of Professional Competencies (APC) which is regulated by the Royal Institution of Chartered Surveyors (RICS).
5. The RICS Pathway Guide outlines mandatory, core, and optional competencies, with a minimum training requirement of 24 months. Candidates should only sit the APC when they feel fully prepared and have demonstrated all required competency levels. These competencies must be signed off by their designated APC counsellor.
6. The respondent does not require employees who are APC candidates to select specific competencies, nor does it impose a fixed timeframe for completing the pathway. Competency selection and progression are guided by the nature of the candidate's work and professional development needs.
7. The claimant began her training in the valuations team, reporting to Ms Gillespie, who also volunteered to act as her APC counsellor.

8. The valuations team dealt with valuation of all Glasgow City Council assets and off market (nominated) sales (e.g. to Housing Associations). 80 percent of the workload was the five yearly valuation reports. The disposals team dealt with the marketed disposals.
9. Stacy Kelly began university as a day-release student in 2016 and joined the disposals team in 2017, where she was line managed in by Allan McDonald. Ms Kelly graduated in 2021. Ms Gillespie had no responsibility for allocating work to Ms Kelly who was in a different team, undertaking different duties and reporting to Mr McDonald.
10. In August 2022, Ms Gillespie recommended that the claimant's temporary contract be made permanent. This recommendation was approved, and the claimant was subsequently informed of the decision.
11. At the end of August 2022, the claimant expressed interest to Ms Gillespie in being involved in a particular transaction being undertaken in Mr McDonald's team. Ms Gillespie advised that the transaction was not suitable for a graduate-level employee but encouraged the claimant to speak with the surveyor handling the matter to gain background knowledge for learning purposes. She confirmed that the claimant would not be directly involved in the transaction.
12. The claimant was disappointed by the response and raised the matter again with Ms Gillespie around 6 September 2022. During this conversation, the claimant also mentioned having received an external job offer and enquired about the possibility of a pay rise. Ms Gillespie advised that she did not have the authority to approve a salary increase and outlined the respondent's pay scale structure.
13. As part of the ongoing service review, the valuations and disposals teams were scheduled to merge. Mr McDonald was appointed to lead the newly formed asset maximisation team. A decision was made to introduce a graduate rotation programme to provide graduates with wider range of work and responsibilities across teams.
14. On 9 September 2022, the claimant expressed an interest in the asset maximisation team. Ms Gillespie explained that under the service review the graduate person specifications were the same and no longer related to an individual team. The claimant was already in the graduate role.
15. In late September 2022, the claimant contacted Harjinder Gharyal for guidance regarding her experiences at work. He advised her to keep a record of events. The claimant raised concerns with Mr Gharyal about the recruitment plan for senior roles following the service review, which she believed had been predetermined and favoured individuals with personal

connections to Ms Gillespie. The claimant felt that her own development needs would not be met as a result.

16. Following a service reform exercise, the claimant was matched into the role of graduate surveyor (temporary) effective from 1 October 2022.
17. Ms Gillespie became involved in Ms Kelly's APC journey in November 2022 when Ms Gillespie suggested initiating regular APC meetings in preparation for her sitting the assessment in March 2023. This coincided with the merger of the valuations and disposals teams. Ms Gillespie assigned some valuation tasks to Ms Kelly and others including Ms McDowall who were part of the merging teams and had not previously been in the valuations team.
18. The claimant and Ms Gillespie sat at adjacent desks. On 6 December 2022, Ms Gillespie was preparing interview packs for recruitment taking place later that week. Among the documentation was a table listing the names of candidates, the positions applied for, their existing roles, and the date and time of their interviews (the interview document). Unknown to Ms Gillespie, the claimant took a photograph of the interview document using a mobile phone.
19. Around December 2022, a valuations manager and a disposals manager were appointed. They were responsible for allocating work to the teams and reported to Ms Gillespie who was promoted to group manager of the valuations and disposal team.
20. The claimant sent a copy of the interview document to Mr Gharyal on 20 December 2022.
21. On 10 January 2023, Ms Gillespie informed the claimant that she would be moving to the asset maximisation team, managed by Mr McDonald, at the end of February 2023. This was part of the graduate rotation and was intended to coincide with the arrival of new graduates who were joining the respondent.
22. One of the graduates was Aaron Gauld who joined the respondent as a graduate in February 2023. He had undertaken a four year property degree and had previously worked for another local authority. Mr Gauld joined the valuations and disposals team. Ms Gillespie was not responsible for allocating work to him.
23. The claimant completed a staff survey on 28 February 2023, in which she named managers whom she alleged had bullied her and treated her unfairly. Ms Gillespie did not receive a copy of the survey results. The only information circulated to staff came from the communications officer on 19 March 2023 and did not mention Ms Gillespie or give her any cause for concern.

24. Ms Gillespie was absent from work from 14 February 2023 returning on 8 March 2023. The claimant was sitting in another part of the office from Ms Gillespie who was involved in meetings, training and catching up on work on 10 March 2023.
25. The claimant met with Ms Gillespie and Mr McDonald in March 2023 to discuss her APC work. Ms McDowall joined the meeting. The claimant was advised that she would be managed by Ms McDowall, who following a competitive interview process, had been promoted to asset manager on 16 January 2023. Ms McDowall was to line manage the claimant and Jacqueline Morton (who had joined on 30 January 2023). The claimant was the only graduate in the asset maximisation team. Ms McDowall was not managing any other graduates and would be the claimant's RICS counsellor.
26. Due to workload demands, the claimant continued working in the valuations and disposals team until 27 March 2023. It was agreed that she would commence her role in asset maximisation team on 3 April 2023.
27. The claimant and Ms McDowall met around 27 March 2023 and was provided with the claimant's summary of experience. During this meeting the claimant expressed that she required disposal experience at level 3, similar to the experience provided to other graduates. Ms McDowall explained that, like all graduates, the claimant would not work solely on her APR as she had responsibility to contribute to the work of the wider team. Lease work fell within the remit of the asset maximisation team and would therefore form part of the claimant's responsibilities.
28. On 30 March 2023, the claimant, accompanied by Mr Gharyal, met with Lynn Norwood, head of corporate HR for Glasgow City Council to discuss her allegations of bullying and harassment by Ms Gillespie. During the meeting, Ms Norwood said she would deal with the matter.
29. On 4 April 2023, the claimant transitioned to the asset maximisation team. During a general conversation, Ms McDowall mentioned that a neighbour still had their Christmas tree up. This led to a light-hearted discussion among colleagues about whether they put up Christmas trees. Ms McDowall asked the claimant if she put up a tree. The claimant felt awkward as she did not wish to discuss her religious beliefs.
30. The claimant sent an email to Ms Norwood for an update. The claimant was advised that Sharon Kinney, HR had been instructed to support her.
31. An in person meeting of the asset management maximisation team was arranged for 12 April 2023. The claimant did not attend but asked for a link to join remotely. Mr McDonald spoke to her and she joined remotely.

32. On 12 April 2023, Ms Norwood spoke informally to Pauline Barclay, managing director, regarding the claimant's allegations of being bullied by her manager. Ms Barclay sought details so that she could have a proper understanding of the issues for investigation. Ms Norwood was clear that she could not share any details with Ms Barclay, as the claimant was fearful of reprisals. Ms Barclay understood that the concern related to gaps in the claimant's APC.
33. Ms Barclay was disappointed that the allegations, said to have originated in September 2022, were only now being raised by Glasgow City Council with the respondent. However, Ms Barclay respected that the claimant wanted confidentiality and considered that the situation might be alleviated because the claimant was moving to a different team and the claimant's APC would be on track.
34. On 13 April 2023, Ms Barclay attended a Teams meeting with Mr McDonald and Ms McDowall. During the meeting she asked Ms McDowall to arrange a meeting with the claimant the following week to discuss a work plan, with an HR representative. No explanation was given to Ms McDowall regarding HR's involvement.
35. Ms McDowall had not completed RICS counselling training. She previously line managed Ms Kelly. She had read up on the RICS Valuation Pathway Guide and the RICS Requirements and Competencies Guide.
36. Also on 13 April 2023, the claimant spoke to Mr McDonald. He commented about issues with stress and recommended PAMs if she needed support.
37. Due to the limited prior interaction with the claimant, Ms McDowall sought clarity of where gaps existed within the claimant's competencies and at what level. She asked the claimant for a bullet-point summary of the claimant's morning and afternoon tasks, an updated diary and a draft of her log book.
38. The claimant met with Ms McDowall on 18 April 2023 with Ms Kinney also present. The claimant was upset that Ms McDowall had not completed the RICS counsellor qualification or reviewed her APC. The claimant expressed a desire to be assigned the same work as other graduates and took exception to Ms McDowall's inquiry about the absence of 2023 entries in her logbook. Ms McDowall's impression was that the claimant thought that she could dictate the type of work she was allocated driven by her APC requirements. There was a departmental workload to be met which would not always relate directly to her APC but would be relevant to her professional development and growth. The claimant was the only graduate in the team, and as such, her workload would differ from that of graduates in other teams. The claimant reported feeling exhausted, frustrated and excluded. Ms McDowall, in turn, was shocked and believed that her professional integrity was being questioned.

39. The claimant was absent from work due to work-related stress from 19 April to 8 May 2023. Based on her earlier conversation with Mr McDonald on 13 April 2023, the claimant believed that she was permitted to take “mental health days”. However Mr McDonald clarified that the claimant was expected to follow the attendance policy.
40. On 19 April 2023, Ms McDowall attended a conference. The claimant was absent from work that day.
41. On 21 April 2023, Ms McDowall, aware that the claimant was absent due to work relates stress but not informed of the specific the cause, attempted to contact her telephone and email in her capacity as line manager. Ms McDowall's intention was to check on the claimant's wellbeing and to advise on the early intervention plan that had been triggered by the claimant's fit note.
42. On 24 April 2023, Ms McDowall completed the RICS councillor training online in less than two hours. She was informed by Mr McDonald that she was no longer to manage or contact the claimant.
43. On 25 April 2023, the claimant was told by Ms Kinney to report to Mr McDonald on a temporary basis. There was discussion about how the claimant should be contacted and it was agreed that it should be in writing.
44. On 4 May 2023, the claimant attended an attendance management meeting with Mr McDonald. She was accompanied, and an HR representative was present. The claimant had prepared a written statement. Mr McDonald understood that the claimant was alleging bullying by Ms McDowall, specifically in relation to the Christmas tree incident and Ms Gillespie staring at her. It was agreed that the managers would not be present in the office at the same time as the claimant. During the meeting, Mr McDonald referenced his own past experiences of work-related stress. While his intention was to express empathy, the claimant perceived this as dismissive of her concerns.
45. Mr McDonald assumed line management responsibility for the claimant and held a catch-up meeting with her on 11 May 2023. His priority was to allocate the growing workload within the asset maximisation team, and he intended for the claimant to gain relevant experience that could contribute to her APC. The discussion became heated.
46. Following the meeting, the claimant emailed HR alleging that Mr McDonald had said, “I know what you think of me Jas, but see if it was up to me, see if it was up to me, I would never have put you on the APC programme.” She subsequently emailed Mr McDonald who responded, denying that the alleged comment had been made.

47. A meeting with Mr McDonald had been scheduled for 15 May 2023, which the claimant cancelled. Mr McDonald attended a three-day conference starting on 16 May 2023, followed by annual leave. During this period, he attempted to contact the claimant to ensure she had sufficient work allocated.
48. The claimant raised a concern with HR regarding persistent emails from Mr McDonald outside her contractual working hours and what she perceived as excessive micromanagement and lack of support in her development as a graduate surveyor.
49. The claimant was instructed by HR from 18 May 2023 to report to Ms Morton on a temporary basis.
50. The claimant also contacted RICS for advice regarding her concerns about potential breach of RICS Rules by Ms Gillespie, Ms McDowall and Mr McDonald. She was asked to provide further information. The claimant sent an email to RICS to which she attached the interview document.
51. In May 2023, the claimant reached out to a RICS registered valuer in private practice about whether she had enough experience to pass level 3.
52. On 30 May 2023, the claimant submitted a written complaint to RICS regarding Ms Gillespie, Ms McDowall and Mr McDonald.
53. On 30 May 2023, the claimant submitted bullying and harassment complaints against Ms Gillespie, Ms McDowall and Mr McDonald.
54. Safeguarding was put in place to prevent the claimant being in contact with the managers about whom she had complained. The claimant worked from home during between June and August 2023.
55. In July 2023, the claimant emailed Marc Canning, head of investment, advising that she was due to submit her APC in August and required support from a RICS counsellor. She requested someone who was RICS qualified, a RICS registered valuer, and had a strong understanding of the valuation pathway. After reviewing team capacity, Mr Canning advised that Laura Baillie would act as her RICS counsellor. The claimant queried Ms Baillie's ability to support the valuation pathway, and Mr Canning advised that this should be discussed directly with Ms Baillie. Ms Baillie left the respondent's employment in August 2023.
56. The claimant's grievances were investigated by Sharon Gillespie, income collection and financial assessment operations manager at Glasgow City Council. By letter dated 23 August 2023, the claimant was advised that her grievances were not upheld. She was provided with three summary reports of the investigations and informed of her right to appeal within seven days.

57. On 31 August 2023, the claimant submitted an appeal against the outcome of her bullying and harassment complaints. While expressing disappointment, she stated that the investigations had failed to address her core concerns regarding racism. She argued that it was inappropriate to assess each allegation in isolation through a “race filter” and that racism should be evaluated as a pattern of actions and behaviours. The claimant requested a full review and re-investigation by an independent external investigator who was RICS registered, familiar with the valuation pathway, and experienced in RICS counselling and graduate development. Her central complaint was that she had not been given the opportunities required by RICS and the respondent within the 24-month valuation pathway, which she believed had been afforded to other graduates.
58. Nicky Neef (head of corporate services) conducted the bullying and harassment appeal. The appeal was not upheld.
59. On 12 October 2023, Ms Neef met with the claimant. While it was not standard practice to provide a detailed summary of reasons for rejecting the appeal, Ms Neef considered it was appropriate in this instance. Her rationale was to support the claimant achieving closure and to enable all parties to move forward constructively.
60. During the meeting Ms Neef talked the claimant through each ground of appeal, explaining the outcome and the reasoning behind each decision. The claimant had emailed the chief executive of Glasgow City Council stating that she no longer saw a future with the respondent with a focus on her APC journey. The claimant continued to express personal safeguarding concerns in relation to previous managers and other employees. Ms Neef explained that both the investigation and the subsequent appeal had found no evidence of bullying or harassment. A move or relocation within the organisation to avoid encountering the three managers was not considered a viable option.
61. There was discussion about potential redeployment across the Council family. The claimant was open to considering redeployment, but only if it would support her progress toward completing her APC by March 2024. She stated that she was approximately 90 percent complete. The claimant also indicated a willingness to engage in mediation, but only if the three managers involved were included in the process.
62. The claimant expressed concern about the absence of 1:1 meetings with Ms Morton from whom the claimant did not consider that she had received support. The claimant asked for a plan of action for the next six months.
63. On 20 October 2023, the claimant emailed Ms Barclay requesting assistance in resolving issues she had experienced over the preceding five months.

These included concerns regarding Ms Morton and her assigned RICS counsellor. The claimant requested a six-month secondment to an external firm that could support her progression towards chartered status, provide the necessary experience to pass her APC, and offer a safe, inclusive, and supportive working environment. Ms Barclay passed the email to Ms Neef who was dealing with the claimant's case and informed the claimant that she was doing so.

64. On 23 October 2023, Ms Neef provided the claimant with a document outlining the investigations and reasons for rejecting the appeal. She also indicated that redeployment and mediation options would be explored, subject to availability and suitability.
65. On 27 October 2023, Ms Neef wrote to the claimant. The respondent's view was that the claimant was approximately 75 percent complete in her APC journey. While it was not usual practice to second employees to external firms, Ms Neef had explored this option but was unable to secure a placement. She continued discussions regarding redeployment within the wider Council family, though she was not optimistic about the prospects. Ms Neef's position was that, once redeployment options had been exhausted, consideration would be given to whether mediation was a suitable option for all parties involved. Meantime the working arrangement in place would continue with Ms Morton as the temporary line manager.
66. By letter dated 30 October 2023, the claimant raised further concerns. She complained that, having expressed reservations about Ms Morton, Ms Neef had nonetheless instructed her to continue working with her. The claimant considered this to be an act of victimisation, arising from her having raised a complaint and expressed concerns about her wellbeing. The claimant stated that she now felt "forced to constructively leave the respondent." She reiterated her safeguarding concerns and linked her ongoing distress to the respondent's handling of her situation.
67. In the same correspondence, the claimant requested a timetable when the respondent would provide with the necessary work experience to address the remaining gaps in her APC. She emphasised that this was directly linked to her qualification period and that timely support was essential to enable completion by March 2024.
68. On 3 November 2023, Mr Canning wrote to the claimant, assuming responsibility for matters relating to her absence, concluded complaints, and ongoing employment. He referred the claimant to Occupational Health and reminded her of the procedure to be followed should she wish to raise a further complaint under the bullying and harassment policy. Mr Canning informed the claimant that no redeployment options were currently available and that

mediation was not considered feasible. He acknowledged that the parties had been unable to reach a mutually agreeable solution regarding her return to normal working arrangements. The claimant had, by this point, twice referred to feeling constructively dismissed. In response, Mr Canning invited her to attend a formal meeting scheduled for 15 November 2023 to discuss the issues raised and the implications for her continued employment.

69. The meeting was postponed due to the unavailability of the claimant's trade union representative.
70. The claimant was absent from work due to work-related stress from 4 November to 12 December 2023. She was referred to PAM OH Solutions and met with Occupational Health RGN Julie Alexander on 13 November 2023, who issued a report the same day.
71. On 10 November 2023, RICS wrote to Ms Gillespie following concerns raised by the claimant regarding what she considered to be inappropriate behaviour. RICS informed Ms Gillespie that it would be determining whether any of its professional rules had been breached. Ms Gillespie was invited to provide comments on the information submitted by the claimant, and to supply any supporting documentation.
72. Enclosed with the correspondence from RICS was a document which the claimant stated to RICS had been found on Ms Gillespie's desk. The document listed the names of individuals who had applied for posts, some of whom the claimant alleged were close personal friends of Ms Gillespie.
73. On 13 November 2023, Ms Gillespie sent an email to Mr Canning, attaching the letter and image she had received from RICS. In her email, Ms Gillespie expressed the belief that the claimant had accessed her desk and taken photographs, using her mobile phone, of confidential information contained in a folder. Ms Gillespie regarded this as a serious breach of confidentiality and of data protection obligations under the General Data Protection Regulation (GDPR). She noted that not only had the document been photographed, but it had also been sent to RICS as part of the claimant's complaint.
74. Mr Canning forwarded Ms Gillespie's email to the respondent's legal manager (who consulted the data protection officer) for advice on the respondent's obligations under GDPR. Mr Canning was advised that there was no obligation to report the matter to the police, and that the breach was unlikely to be of a type requiring notification to the Information Commissioner's Office (ICO) or the individuals concerned. Mr Canning was advised to inform RICS that they should not have received the data, request deletion of all copies, and seek confirmation that this had been done. He was also instructed to

report the incident through the standard internal data breach reporting process.

75. Mr Canning sent an email to the claimant on 16 November 2023 at 12:31, suspending her on a precautionary basis with pay, pending investigation into an alleged breach of GDPR for sharing personal details of job applicants with RICS without the respondent's permission. The previously scheduled meeting under the letter dated 3 November 2023 was suspended pending the outcome of the disciplinary investigation.
76. On 4 December 2023, the claimant attended an investigatory meeting chaired by John McCallum (audit manager), accompanied by her trade union representative.
77. At the investigatory meeting, the claimant initially denied but subsequently confirmed that on 6 December 2022 she had taken a photograph of a document containing the names of interview candidates, the positions they had applied for, and the scheduled interview times. She acknowledged that she was not involved in the interview process and had taken the photograph using her business mobile phone while her manager was away from her desk and without permission.
78. The claimant admitted that she sent images of this document to RICS by email on 17 May 2023. She stated that she did so in good faith, acting as a whistleblower and as a member of RICS, with a duty to report conduct that she believed breached RICS rules. She confirmed that data protection and information security formed part of the general requirements of her APC qualification, but said she understood these obligations to apply only to client data. The claimant had completed information security training on 13 July 2022. She also stated that she believed she had not received all of the respondent's communications since June 2023.
79. Mr McCallum then prepared an investigation report in which he recommended that there was a case to answer under the respondent's disciplinary procedure. Following receipt of the report, Mr Canning determined that the matter should proceed to a disciplinary hearing.
80. The claimant was invited to attend a disciplinary hearing with Mr Canning on 14 December 2023 to address the allegation that she had breached GDPR by sharing personal details of job applicants with RICS without the respondent's permission. The investigation report was enclosed with the invitation, and Mr McCallum was to present the report at the hearing. The claimant was advised of her right to be accompanied and to call witnesses. She was also informed that the allegation could amount to gross misconduct, with potential outcomes including summary dismissal. The hearing was

subsequently rescheduled due to the unavailability of the claimant's representative.

81. The disciplinary hearing took place on 9 January 2024, with the claimant accompanied by her trade union representative.
82. At the hearing, the claimant reiterated that she had been gathering evidence to document her treatment by Ms Gillespie, whom she alleged withheld disposal experience and promoted her friends. The claimant stated that the image she shared supported her argument: a friend of Ms Gillespie had been promoted, while the claimant had not received the necessary disposal experience to progress through her APC. She said that Ms Barclay had advised her to submit a formal grievance.
83. The claimant maintained that it was her duty to report the matter to RICS, and accordingly she sent a whistleblowing email on 17 May 2023. She stated that it was RICS who included the image in their investigation. When asked whether she understood the nature of the alleged data breach, the claimant responded that she viewed it as whistleblowing. Mr Canning sought to understand the connection between the claimant's bullying and harassment complaint and the interview document, noting that it contained personal data of both internal and external candidates for interview for a job for a post for which the claimant had not applied nor was she eligible. The claimant was adamant that the disclosure did not constitute a breach of data protection.
84. Mr Canning was not persuaded by the claimant's explanation. He was concerned that she had initially denied the conduct and later admitted to it. The claimant stated that the interview document was positioned half on her desk and half on her manager's desk. However, Mr Canning noted that this was not reflected in the photograph. In his view, the claimant did not accept any responsibility but went so far as to suggest that Ms Gillespie was at fault for leaving the interview document unattended. The claimant attempted to justify her actions as whistleblowing, but Mr Canning considered this unfounded, as the document did not contain evidence of bullying or harassment, nor did he consider that it met the definition of whistleblowing. He also noted that the claimant had completed the respondent's training on information security. Mr Canning was concerned about the potential reputational damage given the small property market in Glasgow and the impact this could have on future recruitment exercises. He concluded that the claimant's conduct amounted to theft and misuse of confidential documents. He no longer had confidence in the claimant's ability to handle sensitive information, which was a key aspect of her role.
85. Following an adjournment, Mr Canning informed the claimant that she was being summarily dismissed.

86. By letter dated 10 January 2024, Mr Canning informed the claimant of his decision to dismiss her on the grounds of misconduct. The letter also advised her of her right to appeal the decision.
87. The claimant submitted her appeal by letter dated 19 January 2024.
88. On 24 January 2024, the claimant wrote to the respondent advising that she had not uploaded her APC work to the platform and requested access to all versions saved in her "APC" download folder, along with her diary. She also stated her intention to return the IT equipment and PPE on 21 February 2025. The respondent advised that this timescale was too long and asked whether the equipment could be dropped off or collected from her home.
89. On 8 February 2024, Ms Neef wrote to the claimant, reminding her of the contractual obligation to return workplace equipment. She requested that it be returned no later than 12 February 2024, failing which appropriate action would be taken, including the possibility of reporting the matter to the police.
90. The claimant responded stating that she was not withholding the laptop but wished to access her personal data under supervision. She expressed concern about the threat of police involvement and indicated that she would report the respondent to the Information Commissioner's Office (ICO), alleging deliberate obstruction of access to her personal data. She explained that this prevented her from returning the equipment within the requested timeframe. Ms Neef replied, stating that the claimant had been dismissed on 9 January 2024 and that it was not for the claimant to dictate when the property would be returned.
91. Around 22 January 2024, there was an exchange of correspondence between the claimant and the payroll department at Glasgow City Council regarding an apparent overpayment of salary. The claimant repaid the overpaid amount, following which a reconciliation was carried out. An adjustment was made for accrued holiday entitlement, resulting in a repayment to the claimant.
92. An appeal hearing was held on 21 February 2024, chaired by Ms Barclay. The claimant was accompanied by her trade union representative.
93. Ms Barclay conducted the appeal hearing and heard from both Mr Canning and the claimant, each of whom was given the opportunity to ask questions.
94. During the hearing, Mr Canning reiterated that he had taken legal advice regarding the alleged data breach and had considered the claimant's position that her actions constituted whistleblowing, a view also known to Mr McCallum. Mr Canning explained that the interview document included both internal and external candidates and that recruitment decisions were made by

a panel of senior managers, not by Ms Gillespie. He also noted that the claimant had not applied for the role in question.

95. The claimant raised concerns about a potential conflict of interest, noting that Mr Canning was Ms Gillespie's line manager, and also questioned the continued involvement of the same HR adviser. The claimant did not accept the advice provided by the respondent's legal manager about breach of GDPR. When questioned about the right to privacy and data protection in relation to the individuals named in the interview document, the claimant stated that she had not left the interview document out, Ms Gillespie had. She said that there was no witness evidence confirming that the claimant had removed the interview document from a folder. During the investigatory meeting, the claimant initially did not recognise the interview document. The claimant acknowledged awareness of the respondent's whistleblowing policy.
96. Ms Barclay concluded that there was no conflict of interest or bias. She found that HR's involvement was limited to providing advice and guidance. The claimant's bullying and harassment complaints had been investigated and concluded. Ms Barclay noted that recruitment decisions were made by a panel of managers and not by any single individual. She found that the claimant had breached GDPR by disclosing personal details of job applicants to RICS without the respondent's consent. Ms Barclay did not accept the claimant's assertion that the disclosure constituted whistleblowing. The decision not to uphold the appeal was confirmed in writing.
97. At the date of termination, the claimant was 38 years old and had two years of continuous employment. Her gross weekly wage was £747.76, and her net weekly wage was £562.64. She secured alternative employment commencing on 1 February 2024, with a gross annual salary of £30,000.

#### **Observation on witnesses and conflict of evidence**

98. While I accepted that the claimant's views were genuinely held, I found that she had a tendency to misinterpret situations. Her primary focus was on completing her APC within the minimum timeframe. She seemed to hold unrealistic expectations regarding her rights and responsibilities as an employee and frequently misinterpreted verbal interactions and written communications.
99. Up until September 2022, the claimant maintained a positive working relationship with Ms Gillespie and her colleagues. The turning point appears to have been a meeting in early September 2022. According to the claimant's evidence, she believed she had gained substantial valuation experience but had not been given sufficient exposure to disposals work.

100. The claimant stated that during this meeting, Ms Gillespie responded in a cold and demeaning manner, allegedly telling her that she would remain in the valuations team, supporting valuation projects, while new graduates would be given the opportunity to gain disposals experience. The claimant reported that she expressed her dissatisfaction and informed Ms Gillespie that she had been approached by another company offering a similar role, with more disposals experience and full support toward becoming a chartered surveyor. The claimant alleged that Ms Gillespie responded by saying, "What do they see in you?"
101. Ms Gillespie recalled that the discussions with the claimant took place over two separate meetings. In the first meeting, the claimant expressed interest in working on a particular transaction. Ms Gillespie advised that, due to the complexity of the matter, it was not appropriate for the claimant to be directly involved. However, she encouraged the claimant to speak with the senior surveyor in Mr McDonald's team to gain further background information for learning purposes.
102. At the second meeting, Ms Gillespie said the claimant expressed disappointment and referred to having received a job offer from another company. She asked whether Ms Gillespie could increase her salary. Ms Gillespie explained that she could not authorise a pay increase, as the respondent operated within a defined pay scale structure.
103. Given the timing and circumstances of the claimant's request, I considered it likely that Ms Gillespie was frustrated, particularly in light of a recent bereavement within the team and the fact that the transaction in question was not under her management. I therefore found it plausible that Ms Gillespie was more abrupt with the claimant than she might ordinarily have been.
104. However, I found it unlikely that Ms Gillespie, who line managed the claimant, had volunteered to act as her RICS counsellor, had secured an extension to her contract, and was aware of the introduction of the graduate rotation scheme would have made the remark attributed to her by the claimant. On the contrary, my impression was that Ms Gillespie valued the claimant and wished to retain her within the organisation.
105. From September 2022, the claimant reviewed earlier and ongoing work allocation based on the unfounded assumption that Ms Gillespie was responsible for work allocation to all graduates. Additionally, the claimant perceived these allocations as deliberately disadvantageous to her and she readily, though without basis, interpreted them as discriminatory.
106. I heard extensive evidence regarding the work allocated to the claimant between October 2021 and March 2023. Given the claimant's role for over a

year was within the valuations team, it was unsurprising that the most of her work related to valuations. Work allocation appeared to be driven by the team's workload, experience, and statutory deadlines.

107. While the claimant made comparisons with Ms Kelly, given that they worked in different departments and, for the most part, reported to different managers, I considered it understandable that their workloads varied. They also had different backgrounds: Ms Kelly had been employed by the respondent for several years while obtaining on a part-time basis a degree in a relevant subject area, whereas the claimant had joined the respondent more recently, following the completion of a one year postgraduate degree in a relevant subject area.
108. There were disputed evidence regarding the handling of the interview documentation. The claimant's position was that Ms Gillespie had left the interview document openly on her desk, which enabled the claimant to take a photograph of it. The claimant considered that this demonstrated a lack of professionalism on Ms Gillespie's part and supported her belief that Ms Gillespie was promoting her friends for the role. In contrast, Ms Gillespie stated that the documentation was kept in a folder on her desk and that she was unaware that any interview document had been photographed.
109. I had some difficulty understanding the claimant's issue with the interviews in question. She was neither qualified for nor had applied for the roles. There were several candidates, including some internal applicants known to Ms Gillespie, who was a member of the interview panel. The fact that candidates were being interviewed did not mean they were being appointed, and by the end of the month, the successful candidates had been publicly announced. Ms Gillespie was candid in her evidence, acknowledging that she knew a number of the candidates through work. She also accepted that she had both worked and socialised with one of the candidates, who was ultimately unsuccessful.
110. There was disputed evidence regarding the attitude of Ms Gillespie and other colleagues towards the claimant following her completion of the staff survey on 28 February 2023. The survey was anonymous, and staff were unaware of the claimant's contribution. I was not persuaded that any change in attitude towards the claimant was linked to the survey. What appeared more likely was that this was a particularly busy period for the team, and colleagues were focused on managing their workload.
111. The claimant's position was that she was also treated less favourably than Mr Gauld in the work she was allocated. None of the respondent's witnesses directly allocated work to Mr Gauld. From late February 2023 he was based in the valuations and disposals team. By that stage it had been intended that

the claimant would have rotated to the asset maximisation team but that did not happen until early April 2023. They were allocated different work. It is notable that the claimant's move to the asset maximisation team arose in the context of graduate rotation and was initiated by her in September 2022.

112. I address Ms Barclay's evidence in more detail below. However, the turning point in events appears to be April 2023. Until that time, none of the respondent's managers was aware of the claimant's complaints. In fact, it was not until the grievances were raised in May 2023, that the respondent became aware of the nature and detail of the claimant's complaints against Ms Gillespie by which time she had no management responsibility for the claimant. The lack of context or understanding of the claimant concerns before May 2023 only served to exacerbate an already difficult situation.
113. I found Ms McDowall to be a persuasive witness. The asset maximisation team was newly formed and not yet at full complement. Although recently promoted, she was highly experienced and was well regarded by Mr McDonald and Ms Gillespie, both of whom had expressed interest in having her join their team. Ms McDowall understood that the claimant wished to be part of the asset maximisation team and was both willing and capable of supporting her towards RICS qualification.
114. By the time Mr McDonald assumed line management of the claimant, I considered that she viewed her situation through the lens of being treated less favourably than other graduates. I was mindful that Mr McDonald had previously experienced work-related stress, and I recognised that the service review, restructuring, and associated recruitment activities undoubtedly made this a challenging period for him.
115. Mr McDonald understood that the claimant wished to join his team and considered that Ms McDowall was well placed to support her. The involvement of HR was not at his instigation, and following the rapid deterioration of the relationship between the claimant and Ms McDowall, he became understandably cautious in his interactions with the claimant.
116. I could find no plausible reason why Mr McDonald would have made the comment attributed to him by the claimant. The respondent and its managers do not select employees to be APC candidates or impose which competencies to select or the time frame for completing the pathway. I therefore concluded that it was highly unlikely that he did so.
117. The claimant stated that from June 2023 she was shunned by colleagues and treated as an outcast. She said that Ms Morton had not signed her June 2023 PCR and there were no one to one meetings. The respondent's evidence was that safeguarding measures had been implemented, and as a result, Ms

Gillespie, Mr McDonald, and Ms McDowall did not attend the office when the claimant was present. Ms Morton, who had only recently joined the asset maximisation team, which remained understaffed, assumed temporary line management responsibility for the claimant, who was primarily working from home.

118. I accepted that this was a challenging period for all involved, including Ms Morton. While she had not signed the claimant's June 2023 PCR, there was no evidence to suggest that the claimant was not being allocated work, although it may not have been the type of work she wished to undertake for the purposes of her APC. If anything, the team was under-resourced, and Ms Morton was required to manage her own workload in addition to supporting the claimant under unusual and sensitive circumstances.
119. Mr Canning's evidence was consistent with the contemporaneous correspondence. As a member of the senior management team, I did not detect any personal animosity towards the claimant. He candidly acknowledged that, although he held line management responsibilities, it was unusual for him to manage a graduate surveyor. However, he had been instructed to do so by Ms Barclay. My impression was that he was open-minded but recognised the significant challenge posed by the fact that the managers about whom the claimant had complained were unwilling to engage in mediation. Matters were further complicated by the claimant having raised concerns about Ms Morton during meetings, although these concerns had not been formally submitted under the bullying and harassment policy.
120. The claimant stated that while she was on sick leave, Mr Canning contacted her on 16 November 2023 to inform her that she was being suspended. She said she wanted to end the call so that she could consult her trade union representative. According to her evidence, the claimant was told that the alleged GDPR breach involved sharing personal details of job applicants and candidate numbers with RICS without the respondent's consent. She also stated that she was blocked from accessing her laptop, which she felt prevented her from defending herself against the allegations. Mr Canning's evidence was that his initial response was to seek advice to ensure the matter was handled appropriately. He understood that a potential GDPR breach had occurred and decided to suspend the claimant to allow for an investigation. Mr Canning was not involved in that investigation.
121. I found Mr Canning's evidence on this to be entirely plausible. None of the respondent's witnesses had prior knowledge of what the claimant had sent to RICS. The timing of RICS's correspondence with Ms Gillespie appeared coincidental other than the internal complaint process had finished. I did not know if the RICS investigation was on hold until then. I considered that Ms Gillespie raised the issue out of concern for data confidentiality, particularly

given that it arose in the context of the claimant raising concerns about inappropriate behaviour. While Ms Gillespie should have reported the matter through the standard data breach process, it was understandable that she raised it with her line manager given the nature of the confidentiality concerns. Regardless of how Ms Gillespie raised the issue, it was in my view likely that the claimant would view it as victimisation.

122. The claimant asserted that the information provided to her during the telephone call with Mr Canning and in the suspension letter was inconsistent. I was not persuaded by this. It is possible that the claimant, who was under stress, misheard or misunderstood the information. Mr Canning had seen the document sent to RICS, and the suspension letter made no reference to candidate numbers.
123. The claimant also emphasised the disadvantage she experienced by being denied access to her laptop. In my view, this was standard procedure during suspension. The claimant received the suspension letter, which clearly set out the allegation. She was invited to an investigation meeting and was accompanied by her trade union representative. At that meeting, the claimant stated that Mr Canning had suspended her for a GDPR breach involving the sharing of RICS candidate numbers of three managers without their consent. She said she did not know which document this referred to. A copy of the document was provided to her at the meeting. She initially denied sending it, but after a 20-minute recess, she acknowledged that she had sent it to RICS by email on 17 May 2023 on an informal basis to support her whistleblowing complaint.
124. I considered that Ms Barclay gave her evidence patiently and honestly. She was candid in acknowledging that she was informed in April 2023 of the claimant raising concerns with Glasgow City Council, and expressed disappointment that the respondent had not been made aware sooner, and that the details of the allegations remained unclear until May 2023. I accepted that her disappointment was directed at the process rather than the claimant personally, and that her focus was on resolving what she understood to be the core issue: gaps in the claimant's APC progress.
125. The claimant's understanding was that Ms Barclay was unwilling to resolve matters informally. However, the claimant did not appear to appreciate that Glasgow City Council was not her employer, and that until the details were provided to the respondent, it was difficult to progress concerns either formally or informally. The claimant also seemed unaware that she was making allegations rather than stating facts, and that even in an informal context, her manager was entitled to be informed of the nature of the allegations and given an opportunity to respond. While the claimant feared reprisals and therefore

sought confidentiality, this inadvertently compounded the situation rather than facilitating resolution.

126. Although I initially had some concerns about Ms Barclay's awareness of the issues from April 2023, I was satisfied that she had strategic oversight but was not directly involved. She had delegated responsibility to managers in whom she had confidence. It was entirely plausible that Ms Barclay would choose not to become directly involved unless necessary, particularly given that, depending on the outcome of internal investigations involving multiple employees, she might later be required to be a decision maker a formal process, as ultimately occurred.
127. There was disputed evidence regarding the return of the respondent's property and salary payments following the termination of the claimant's employment. The claimant alleged that the situation amounted to harassment. I did not hear evidence from Ms Neef. Mr Canning was not involved in instructing payroll regarding final payments, and while Ms Barclay was aware of the correspondence, she was not directly involved.
128. The claimant's evidence regarding termination payments was unclear. She suspected that she had not received her full holiday entitlement but was unable to specify which holidays she had taken or explain why she believed further sums were owed. The respondent's position was that all payments due to the claimant had been made. Initially, payroll identified an overpayment of salary, which the claimant was asked to repay—and did so. A subsequent adjustment was made to account for accrued holiday entitlement, resulting in a repayment to the claimant. While I could understand the claimant's confusion, particularly given that some of the correspondence was incorrectly dated, I was not able to identify any basis for her belief that additional payments were due beyond her general suspicion.
129. Although I considered it unfortunate that these issues arose and accepted that they caused the claimant distress, there was no evidence before me to suggest that the conduct amounted to discrimination or victimisation. The claimant chose to save the APC documentation on the laptop. She did not return the respondent's property on the termination of her employment. While the claimant provided an explanation for this, the items were not hers to retain. The issues with final salary payments appeared to be genuine administrative errors, which payroll rectified voluntarily.
130. There was an issue concerning the claimant's access to her APC documentation, which was necessary for her career progression. It was not disputed that the documentation should have been stored on both the RICS portal and the respondent's internal network. However, the claimant chose

instead to save the documents locally on her laptop's hard drive, which she did not initially return following the termination of her employment.

131. The parties presented markedly different narratives. For the claimant's version to be preferred, I would need to accept that the respondent was under an obligation to support her in achieving APC qualification within 24 months, or by March 2024, as agreed with her RICS counsellor, by providing work aligned with her APC pathway. I would also need to accept that the failure to do so was due to race discrimination or victimisation.
132. Although I recognised that the claimant genuinely believed the respondent's treatment was discriminatory and "unequal", I found it notable that, even during the hearing, she was unwilling to make any concessions or consider alternative explanations. While she expressed understandable distress regarding her perceived conduct of others, she showed limited insight into how her own written and verbal communications may have been perceived by colleagues and the distress that may have caused.

### **Discussion and deliberations**

133. I referred to the agreed list of issues and the parties submissions. The claimant brings the following claims: discrimination under section 13, 26 and 27 of the EqA; unfair dismissal under section 98 of the ERA and unlawful deduction of wages under section 13 of the ERA. This is the order in which I considered the issues.
134. In relation to the discrimination/victimisation claims the burden of proof initially lies with the claimant to establish facts from which I could conclude, in the absence of an adequate explanation, that discrimination occurred. If such facts are established, the burden shifts to the respondent to provide a non-discriminatory/non-victimisation explanation.
135. I therefore considered whether on the balance of probabilities there were any facts in this case which create a prima facie presumption that discrimination has taken place and if so whether breach its obligations towards the claimant under the sections of the EqA.

#### *Direct discrimination – section 13 of the EqA*

136. Direct discrimination occurs where: "A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others."
137. To establish direct discrimination, the claimant must show:
  - a. That she was treated less favourably;

- b. That the treatment was because of a protected characteristic;
  - c. That a comparator (actual or hypothetical) would have been treated more favourably.
138. I first considered whether the claimant was treated less favourably because of her race. The claimant alleged the following less favourable treatment.
- a. Allegation 1: The failure of the respondent (in particular by Ms Gillespie, Ms McDowall, Ms McDonald and Ms Morton) to provide the claimant with the same work experience, opportunities or support as her colleagues throughout her career (for which her comparators are Ms Kelly and Mr Gauld).
  - b. Allegation 2: The decision to investigate the claimant's GDPR breach and suspend her on 16 November 2023 (for which her comparator is Ms Gillespie).
  - c. Allegation 3: The decision to summarily dismiss the claimant on 9 January 2024 (for which she relies on a hypothetical comparator, namely a white colleague).
  - d. The rejection of the claimant's appeal which was communicated by letter dated 21 February 2024.
139. In relation to Allegation 1, the claimant submitted that Ms Kelly and Mr Gauld were provided with qualified RICS councillors and qualified in May 2023 and May 2025 respectively. The claimant said that she did not have a qualified RICS councillor on two occasions.
140. I was not satisfied that there was no material difference between the circumstances of the claimant and the comparators she relied upon. Although all were graduates, their undergraduate degrees were in different disciplines, their employment commenced at different times, they were pursuing APC pathways on different timescales, and they were placed in different teams and allocated work by different managers.
141. I accepted that, for a brief period, Ms McDowall was not qualified as a RICS counsellor, and in July 2023 the claimant raised concerns regarding the specialism of the proposed RICS counsellor. However, I was not persuaded that this amounted to less favourable treatment on grounds of race. The work allocated to the claimant was consistent with the remit of the team in which she was placed. RICS counsellors volunteered for the role, and while efforts were made to assign counsellors from within the team, this was not always feasible. I was not satisfied that any failure by the respondent in this regard was because of the claimant's race.

142. Turning to Allegation 2, the claimant was suspended pending an investigation into an alleged breach of GDPR. The comparator identified by the claimant was Ms Gillespie. While I accepted that Ms Gillespie was neither suspended nor investigated for a GDPR breach, I was not satisfied that there was no material difference between their circumstances. Ms Gillespie had not sent an image of a document containing personal data to a third party without consent.
143. I considered how the respondent would have acted had a hypothetical comparator, an employee of European descent who sent such an image (without the respondent's or the individuals' consent) to RICS in connection with a complaint about their line manager. Given that this conduct could amount to gross misconduct under the respondent's disciplinary policy, I concluded that an investigation would have been warranted and suspension would have been appropriate. Accordingly, I was satisfied that a hypothetical comparator would have been treated in the same way.
144. Turning to Allegation 3, the claimant was summarily dismissed and relied on a hypothetical comparator a white colleague. However, for the comparison to be valid, there must be no material difference in circumstances. In my view, the hypothetical comparator must not only be white but must also have committed a similar breach of GDPR. Based on the evidence before me, while the claimant was summarily dismissed, there was no evidence from which I could infer that the dismissal was because of her race.
145. In relation to Allegation 4, concerning the rejection of the appeal, no actual or hypothetical comparator was identified. Once again, based on the facts before me, there was no evidence from which I could infer that the reason for the treatment was the claimant's race.

*Harassment section 26 of the EqA*

146. Next, I turned to the harassment claim. A person (A) harasses another (B) if: A engages in unwanted conduct related to relevant protected characteristic, and the conduct has the purpose or effect of violating B's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for B.
147. The behaviour must be unwelcome or uninvited by the claimant. It can be verbal, non-verbal, or physical. The conduct must be related to one of the protected characteristics under the EqA. It need not be because of the characteristic, but must be connected to it. I must consider both the intention of the respondent and the impact on the claimant. Even if the conduct was not intended to harass, it may still amount to harassment if it had the relevant effect. In determining whether conduct has the effect referred to, I must consider: the perception of the claimant; the other circumstances of the case;

and whether it is reasonable for the conduct to have that effect. This ensures a balance between the claimant's subjective experience and an objective standard of reasonableness.

148. I referred to the list of issues and noted that the claimant relied on the following conduct as unwanted.
- a. Conduct 1: The decision of Ms Barclay around April 2023 not to agree to settle matters informally.
  - b. Conduct 2: The behaviour of managers as detailed in the bullying and harassment complaints on 30 May 2023, including Ms Gillespie saying at a one-to-one on 6 September 2022 that she would not give the claimant any disposal experience.
  - c. Conduct 3: The conduct of managers following the submission of the bullying and harassment complaints, for example having to seek Ms Morton's permission to speak with other surveyors and being ignored and excluded. This was particularly in the period June – August 2023 when the claimant was working from home.
  - d. Conduct 4: The decision to suspend the claimant and to investigate the claimant's GDPR breach on 16 November 2023 (Mr Canning).
  - e. Conduct 5: The dismissal of the claimant on 9 January 2024.
  - f. Conduct 6: The rejection of the claimant's appeal communicated by letter dated 21 February 2024.
  - g. Conduct 7: Emails from Ms Neef in February 2024.
  - h. Conduct 8: Correspondence from the respondent to the claimant between 22 January 2024 and 21 February 2024 requesting that she repay an alleged overpayment of salary despite her having already repaid it and there not being an overpayment.
149. In relation to Conduct 1, I did not find that Ms Barclay made this decision. It was the claimant who raised matters with Glasgow City Council and it was she who wanted the details nature of the complaints to remain confidential.
150. I did not find that the allegations relating to the meeting on 6 September 2023 occurred. In relation to the numerous allegations in the bullying and harassment complaints, to the extent they occurred, other than the Christmas tree discussion, I did not consider that there were any findings from which I could infer that the conduct related to race.
151. I accepted that the discussion regarding the Christmas tree may be related to race or belief, and that the claimant felt uncomfortable due to the private

nature of her beliefs. However, I was satisfied that this was not the purpose of the conversation. Ms McDowall did not know, nor did she inquire about the claimant's ethnicity or beliefs and she unaware of any prior complaints. On the contrary, the discussion was light-hearted, and Ms McDowall believed she was being inclusive by inviting the claimant to participate.

152. There was no evidence to suggest that the claimant indicated the conversation was unwelcome or that it continued beyond the initial exchange. Viewed objectively, I did not consider it reasonable for the conversation to have had the effect on the claimant that it did.
153. As regards Conduct 3, I was not satisfied that there was evidence to support the claim that the claimant was excluded or ignored prior to June 2023. I accepted that between June and August 2023, while working from home and subject to safeguarding measures concerning the managers about whom she had complained, the claimant may have felt isolated. However, I had difficulty identifying how this conduct was related to race.
154. There was no evidence before me to suggest that any conduct by her line manager after June 2023, particularly Ms Morton, was intended to violate the claimant's dignity or create an intimidating, hostile, degrading, humiliating, or offensive environment. While the claimant stated that the conduct had that effect, she was mostly working remotely and was unaware of the pressures faced by managers at the time. The role of RICS counsellor is voluntary, and the respondent could not prevent employees from stepping down if they chose to do so or leave the respondent's employment. Viewed objectively, I did not consider it reasonable for Conduct 3 to have had the effect on the claimant that it did.
155. Conduct 4, 5, and 6 constituted unwanted conduct that related to alleged misconduct by the claimant involving a breach of GDPR. On the face of it, a disciplinary investigation and potential sanction were warranted. I was not satisfied that this conduct was related to race. The information disclosed concerned candidates for a job interview for a role the claimant had not applied for.
156. Conduct 7 was also unwanted conduct. My understanding was that the claimant, for reasons that remained unclear, chose not to save her APC work to the designated platform. This was her decision, and one of which the respondent was unaware. While I accepted that the claimant was distressed by the tone of the emails, particularly the reference to possibly involving the police, she still retained the respondent's property despite her employment having ended a month earlier. Had the claimant returned the property as required, the unwanted conduct would not have occurred. In any event I did not consider that the conduct was related to race.

157. Conduct 8 was unwanted conducted. However for the reasons explained above I considered that this was administrative error unrelated to race.

*Victimisation – section 27 of the EqA*

158. I then turned to the victimisation claim. A person (A) victimises another person (B) if A subjects B to a detriment because B does a protected act, or A believes that B has done, or may do, a protected act.
159. The protected acts include: bringing proceedings under the EqA; giving evidence or information in connection with proceedings under the EqA; doing anything else for the purposes of or in connection with the EqA; making an allegation (whether express or implied) that someone has contravened the EqA.
160. The claimant must have suffered a disadvantage or negative treatment. This is interpreted broadly and includes any treatment that a reasonable person would consider to be detrimental. There must be a causal connection between the protected act and the detriment. The detriment must be because of the protected act or the respondent's belief that the claimant has done or may do such an act. Unlike direct discrimination, victimisation does not require a comparator. The focus is on the reason for the treatment, not whether someone else was treated differently.
161. The claimant relied on two protected acts:
- a. Submitting bullying and harassment complaints against three managers on 30 May 2023 (the First Protected Act).
  - b. Reporting the three managers to RICS on 30 May 2023 (the Second Protected Act).
162. I was satisfied that the claimant had done protected acts. I then referred to the list of issues setting out the detriment that the claimant alleged that she was subject to because of the protected acts.
- a. Detriment 1: Being ostracised by management and colleagues including having to seek Ms Morton's permission to speak with other surveyors.
  - b. Detriment 2: Not being provided open market sales at level 3 Purchase and Sales level to complete her APC whilst having an APC employment contract. Resulted in overwhelming level of stress and anxiety. This was from 31 May 2023 until dismissal and the person responsible was Ms Morton.

- c. Detriment 3: Being suspended on 16 November 2023 and subjected to an investigation and disciplinary.
  - d. Detriment 4: Being dismissed on 9 January 2024 ostensibly for a breach of GDPR.
  - e. Detriment 5: Being denied access to her APC documentation that she requires for a career progression purposes.
163. In relation to Detriment 1, I acknowledge that the claimant may have experienced a sense of isolation while predominantly working from home from June 2023. However, I did not find that she was ostracised or that she was required to seek permission from Ms Morton to communicate with other surveyors. Following the First Protected Act, the claimant was safeguarded from the three managers. She had previously worked from home and continued to be allocated work within a team where she was the sole graduate surveyor. Ms Morton held temporary line management responsibility for the claimant. She did not raise any concerns about the claimant; rather, it was the claimant who expressed a desire for a change in line manager. Mr Canning took steps to support the claimant by sourcing an RICS counsellor from another team, with whom the claimant liaised.
164. Turning to Detriment 2, while the claimant was not allocated the specific work she preferred, this had been her position since September 2022. I was not satisfied that the respondent was under an obligation to allocate work that the claimant considered most conducive to completing the APC pathway within the minimum timeframe. Nevertheless, the claimant was provided with work that qualified as relevant evidence of disposals.
165. As regards Detriment 3, the internal investigation concluded in October 2023. From the claimant's own explanation, the data breach did not arise from the Second Protected Act but from an earlier communication with RICS on 17 May 2023, of which the respondent was unaware at the time of her suspension. In any event, I found that Detriment 3 was not a consequence of the Protected Acts but rather a response to the claimant's conduct in breaching GDPR obligations.
166. In relation to Detriment 4, as previously indicated, I considered that the disciplinary proceedings were warranted due to the claimant's conduct. Mr Canning was not involved in the Protected Acts. He assumed line management responsibility for the claimant in November 2023 and was actively taking steps to facilitate her return to work. There was no evidence to suggest that the respondent intended to terminate her employment; on the contrary, it was the claimant who sought a secondment or a transfer to another part of the organisation. As explained below, I did not consider that

Mr Canning's decision was pre-determined. He reached his decision after following the disciplinary process, and it was based on the claimant's conduct and explanation at the disciplinary hearing, not the Protected Acts

167. In relation to Detriment 5, while the claimant was unable to access her APC documentation, this was not attributable to the Protected Acts. The APC documentation stored on the respondent's network was made available to her. However, the more recent version of the APC documentation, along with her diary, had been saved by the claimant on the hard drive of the laptop, which she retained following the termination of her employment. Although she was unable to access those files, this was due to her failure to promptly return the laptop to the respondent and failing to save the information on the RICS portal.
168. Having considered each head of claim for discrimination and victimisation, and having reached my decisions on each, I concluded that these claims should be dismissed.

*Unfair Dismissal – section 98 ERA*

169. Under section 98 of the ERA, the fairness of a dismissal is assessed in two stages. First the employer must show the principal reason for the dismissal, and that it falls within one of the potentially fair reasons listed in section 98(2). The burden is on the employer to establish the reason and that it was the genuine reason for dismissal.
170. Once a potentially fair reason is established, I must consider whether the employer acted reasonably in treating that reason as sufficient for dismissal. Section 98(4) provides:
- “...the determination of the question whether the dismissal was fair or unfair (having regard to the reason shown by the employer) (a) depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee; and (b) shall be determined in accordance with equity and the substantial merits of the case.”
171. I must apply the objective standard of reasonableness, considering all the circumstances. I must not substitute my own view for that of the employer but assess whether the employer's decision fell within the range of reasonable responses open to a reasonable employer. Procedural fairness is also critical. A dismissal may be unfair if the employer failed to follow a fair procedure, even if the reason itself was potentially fair.
172. I referred to the list of issues and considered whether the dismissal was for a potentially fair reason. The respondent stated that the reason for dismissal

was conduct, which is recognised as a potentially fair reason under the ERA. The claimant, however, asserted that her dismissal was because of, or related to, her race or the Protected Acts she had carried out. For the reasons set out above, I did not accept the claimant's assertion.

173. Mr Canning took the decision to dismiss the claimant. I therefore considered his evidence regarding the rationale for that decision. Mr Canning stated that, around 13 November 2023, he was informed that the claimant had sent a photograph containing confidential information to RICS which was potentially a breach of confidentiality and of the GDPR. Mr Canning sought legal advice to clarify the respondent's obligations under GDPR. Once this was clarified, the claimant was suspended, and an investigation and disciplinary hearing followed. Mr Canning confirmed that the reason for dismissal was the claimant's breach of GDPR. I was satisfied that the respondent had established the reason for dismissal, and it was potentially fair.
174. The next issue I considered was whether the respondent had reasonable grounds for its belief in the alleged misconduct, and whether, at the time that belief was formed, the respondent had carried out as much investigation as was reasonable in the circumstances. The burden of proof at this stage was neutral.
175. Mr Canning became aware of the claimant's conduct around 13 November 2023. At that stage he was the claimant's newly appointed line manager. After obtaining legal advice from the respondent's legal manager, who had consulted the data protection officer, Mr Canning understood that while there had been a breach of GDPR, it was not reportable to the IOC, nor was there a requirement to notify the individuals concerned.
176. Mr Canning decided to suspend the claimant to allow for an investigation under the respondent's discipline and appeals procedure into the allegation that she had breached GDPR by disclosing personal details of a job applicant to RICS without the respondent's consent. He wrote to the claimant, setting out the alleged conduct that would be the subject of the investigation. Mr Canning had no further involvement in the investigation process.
177. The investigation was conducted by Mr McCallum, who had no prior involvement in the matter. He reviewed relevant documentation, interviewed Ms Gillespie (who had brought the matter to Mr Canning's attention), and subsequently interviewed the claimant, who was accompanied by her trade union representative. Mr McCallum then prepared a report in which he concluded that there was a case to answer under the respondent's disciplinary procedure. Mr McCallum's only further involvement was to attend the disciplinary hearing to present his report.

178. From the report Mr Canning believed that the claimant initially denied but subsequently confirmed that she had taken the photograph of the document in December 2022 and sent it to RICS by email in May 2023. The claimant had acknowledged that she was not involved in the interview process and had taken the photograph using her business mobile phone while her manager was away from her desk and without permission. The claimant had completed information security training. She justified the conduct as she said she was whistleblowing.
179. Mr Canning accepted Mr McCallum's recommendation and invited the claimant to attend a disciplinary hearing. The invitation letter restated the allegation to be considered, identified who would be present, confirmed the claimant's right to be accompanied, and advised that the allegation could amount to gross misconduct, with dismissal being a possible outcome.
180. Given Mr Canning's involvement in the claimant's suspension, it might have been preferable for another manager to conduct the disciplinary hearing. However, I did not consider it to be outside the band of reasonable responses for Mr Canning to have chaired the hearing. The suspension was precautionary in nature, and Mr Canning had no involvement in the investigation itself.
181. Although the disciplinary invitation letter indicated that the alleged conduct could amount to gross misconduct, with a potential outcome of summary dismissal, I was not persuaded that Mr Canning had predetermined the outcome. He believed from the report that the claimant had breached GDPR, but he expressed a desire to understand the reasons behind her actions. My impression was that Mr Canning was open to considering any mitigating circumstances put forward and any reassurance that the conduct would not be likely to recur.
182. Prior to the hearing, the claimant was aware of the allegation against her and the possible consequences. The hearing was rescheduled to ensure she could be represented and had sufficient time to call witnesses, should she wish to do so.
183. The hearing continued the investigation process, during which the claimant was given the opportunity to explain why she had sent the image to RICS. Her position was that she was acting as a whistleblower and that the disclosure did not constitute a breach of GDPR. Mr Canning sought to understand how the list of candidates could be considered evidence of favouritism by Ms Gillespie, particularly as Ms Gillespie was not the decision-maker in the recruitment process. The claimant did not reflect on whether she should have acted differently, instead focusing on blaming Ms Gillespie for leaving the interview document on her desk. The claimant did not consider

her conduct was inappropriate. She did not suggest that she lacked GDPR training or demonstrate any insight into how her actions could affect others, including the individuals named on the list.

184. Mr Canning understood that the claimant's explanation was that she disclosed the personal information without consent in the context of whistleblowing. He researched the definition of whistleblowing on the government website and concluded that the interview document sent to RICS did not evidence bullying or harassment and did not meet the criteria for a protected disclosure.
185. I concluded that the investigation carried out by the respondent up to and including the disciplinary hearing fell within the range of reasonable responses that a reasonable employer might have adopted. I then applied the range of reasonable responses test to the decision to dismiss and the procedure by which that decision had been reached.
186. At the disciplinary hearing the claimant knew the case against her. She was given an opportunity to explain her position and comment on any mitigating circumstances. The claimant was represented throughout the internal process.
187. At the time of dismissal, the claimant had admitted the conduct. Mr Canning believed from the report, the claimant had received GDPR training. He noted that she had taken a photograph of a document containing personal information about internal and external job applicants from her manager's desk, retained the image from December 2022, and sent it unredacted to RICS in May 2023. He did not find her explanation for the disclosure satisfactory and was further concerned by her responses during both the investigatory meeting, where she initially denied the conduct, and the disciplinary hearing. Given the nature of the respondent's business, and the potential consequences of the action, I considered that Mr Canning had reasonable grounds for believing what he did and had carried out sufficient investigation.
188. I noted that a failure to carry out a reasonable and proper procedure at each stage of the dismissal process, including the appeals stage, is relevant to the reasonableness of the whole dismissal process.
189. The claimant was afforded a right of appeal. The appeal hearing was conducted by Ms Barclay. As previously noted, I was satisfied that, although Ms Barclay had strategic awareness of the broader issues, she had not been directly involved in any of the earlier decisions. The claimant was represented at the hearing and had the opportunity to question Mr Canning. I did not form the impression that Ms Barclay was merely going through the motions or would not overturn Mr Canning's decision. The concern was not that the

claimant had raised issues with RICS, but that she had sent a document containing personal data without considering whether it was appropriate to do so, and without redacting the information. The claimant's inability to recognise any issue with how she had obtained the interview document or with sending it in an unredacted format, gave rise to a lack of confidence that the conduct would not be repeated.

190. I was satisfied that the respondent had carried out a reasonable and proper procedure at each stage of the disciplinary process including the appeals stage.
191. I then considered the decision to dismiss the claimant. I was mindful that the question was not whether I would have dismissed the claimant but whether the respondent's decision to dismiss her fell within the range of reasonable responses that a reasonable employer in those circumstances and that business might have adopted.
192. Mr Canning made the decision to dismiss the claimant. I did not consider this to have been an automatic or predetermined outcome. Given that colleagues were working with sensitive information that could not always be securely stored when temporarily away from their desks, a high level of trust and respect for confidentiality was required. The claimant admitted the conduct. Her focus was on deflecting blame to Ms Gillespie. The claimant showed no reflection on her own actions, nor any indication that she would act differently in the future.
193. Ms Barclay upheld the decision to dismiss. She concluded that the claimant had breached GDPR and failed to demonstrate insight or understanding of the seriousness of her actions.
194. I concluded the respondent's decision to dismiss the claimant fell within band of reasonable responses which a reasonable employer might have adopted. Having decided that the dismissal was fair, I dismissed the unfair dismissal claim.

#### *Section 13 of the ERA*

195. An employer must not make any deduction from an employee's wages unless the deduction is: required or authorised by statute; authorised by the employee's contract; or consented to in writing by the employee.
196. On the evidence before me, I was unable to find that there had been any unauthorised deduction from the claimant's wages within the meaning of section 13 of the ERA. Accordingly, this claim failed.

#### *Remedy*

197. In light of the conclusions I have reached on liability, it was not necessary to consider the question of remedy.

**Date sent to parties**

**01 September 2025**