



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms V Carridice

**Respondent:** University Hospitals Sussex NHS Foundation Trust

**Heard at:** London South      **On:** 11 and 12 August 2025

**Before:** Employment Judge Atkins  
Dr S Chacko  
Mr S Townsend

## Representation

Claimant: Did not appear and was not represented  
Respondent: Ms Winstone, Counsel

The unanimous judgment of the Employment Tribunal was handed down on 12 August 2025.

On the same day, the Respondent requested written reasons.

# REASONS

## Claims and Issues

1. The Claimant was employed by the Respondent as a "*Band 7 Senior Specialist Biomedical Scientist – Quality Officer*" from 7 December 2020. The Claimant resigned from her employment on 28 March 2025 with effect from 30 May 2025.
2. The Claimant claims that she was subject to:
  - (a) Direct race discrimination contrary to section 13 Equality Act 2010.
  - (b) Harassment related to race, contrary to section 26 Equality Act 2010.
  - (c) Victimisation, contrary to section 27 Equality Act 2010.
3. Further claims of direct age discrimination and sexual harassment had been made, but subsequently withdrawn, by the Claimant, and so they were not considered.
4. The Claimant first made her claim on 29 January 2024. A Case Management Order was made by EJ Abbott on 16 January 2025, following a case management hearing on 9 January 2025. Amended grounds of resistance were filed by the Respondent on 12 February 2025. A further case management hearing took place before EJ Sudra on 30 June 2025.

5. EJ Sudra made a deposit order on 30 June 2025, in respect of 6 items on the List of Issues which he determined had little reasonable prospect of success. Those issues were subsequently withdrawn by the Claimant (with the effect that her claims of direct age discrimination and sexual harassment were withdrawn). The deposit order became academic. It was set aside in any case due to a failure of the Tribunal to serve it in a timely fashion.
6. As a result of these events, the amended list issues for the panel to decide were:

*“1. Time limits*

*1.1 Given the date the claim form was presented and the dates of early conciliation, any complaint about something that happened before 25 August 2023 may not have been brought in time. Were the complaints made within the time limit in section 123 of the Equality Act 2010? The Tribunal will decide:*

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

*1.2.2 If not, was there conduct extending over a period?*

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

*1.2.4 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?*

*Direct race discrimination (Equality Act 2010 section 13)*

*2.1 Did the respondent do the following things:*

*2.1.1 Fail to provide the claimant with a secure locker for her belongings on starting in role;*

*2.1.2 In December 2020, place the claimant in an office that was cold, dark, cramped and away from other colleagues;*

*2.1.3 In around December 2020, its employee James Aynsley (and/or other employees of the respondent) tell the claimant that the office she was placed in was known as “the black room”;*

*2.1.4 Repeatedly, throughout her employment, deny the claimant training opportunities;*

*2.1.5 In March / April 2021, its employee Tamsyn Cromwell facilitate other employees (specifically Kade Flowers) to use the claimant’s desk without prior warning and without offering the claimant alternative arrangements;*

*2.1.6 In March / April 2021, its employee Nik Hawes behave in a rude, belligerent and dismissive way towards the claimant when she raised concerns regarding being displaced from her desk;*

*2.1.7 In around November 2021, its employee Sarah Bastow pressurise the claimant to drop her first grievance and/or to deal with it informally;*

*2.1.8 Fail to properly resolve the claimant’s first grievance brought in November 2021;*

*2.1.9 In around June 2022, offer the quality manager role to another*

*candidate, and its employee Lorne Dye explaining this was because the other members of the interview panel did not like the claimant;*

*2.1.10 In around June 2022, its employee Lorne Dye seeking to dissuade the claimant from applying for a secondment;*

*2.1.11 On multiple occasions at monthly team meetings between October 2022 and September 2023, members of the team (including Nik Hawes, James Aynsley, Sarah Bastow, Imran Ahmed, Amber Crampton, Tamsyn Cromwell, Robert Moore, Jason Brown, Liza Faustino) pick-on and scapegoat the claimant in MS Teams meetings and follow-up emails in the context of her presentation of quality reports;*

*2.1.12 In March / April 2023, its employee Sarah Bastow deny the claimant a secondment opportunity that had been offered to her;*

*2.1.13 Purposely not invite the claimant to meetings relevant to her role, in particular those in preparation for the annual lab inspection in May 2023;*

*2.1.14 In May 2023 and again in October 2023, its employee Liza Faustino sought to impose a performance improvement plan on the claimant;*

*2.1.15 Its employees Lorne Dye and Sarah Bastow not giving credit to the claimant for the lab inspection ultimately being passed;*

*2.1.16 In around June 2023, its employee Barbara Aukett pressurise the claimant to drop her second grievance and/or to deal with it informally;*

*2.1.17 Fail to properly resolve the claimant's second grievance brought in June 2023;*

*2.1.18 Fail to properly resolve the claimant's third grievance brought in July 2023;*

**2.2 Was that less favourable treatment?**

*The Tribunal will decide whether the claimant was treated worse than someone else was treated. There must be no material difference between their circumstances and the claimant's. If there was nobody in the same circumstances as the claimant, the Tribunal will decide whether they were treated worse than someone else would have been treated.*

*The claimant says they were treated worse than other members of the department, including (in respect of allegation 2.1.1) Kade Flowers, Eve Swetman, (in respect of allegation 2.1.9) Helen Varney, Helen Foss, Abigale [surname unknown] and (in respect of allegation 2.1.15) Liza Faustino.*

**2.3 3. If so, was it because of race?**

*...*

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

**4.1 Did the respondent do the following things:**

*4.1.1 In December 2020, place the claimant in an office that was cold, dark, cramped and away from other colleagues;*

*4.1.2 In around December 2020, its employee James Aynsley (and/or other employees of the respondent) tell the claimant that the office she was placed in was known as "the black room";*

*4.1.3 In March / April 2021, its employee Tamsyn Cromwell facilitate other employees (specifically Kade Flowers) to use the claimant's desk without prior warning and without offering the claimant alternative arrangements;*

4.1.4 In March / April 2021, its employee Nik Hawes behave in a rude, belligerent and dismissive way towards the claimant when she raised concerns regarding being displaced from her desk;

4.1.5 In around November 2021, one of its employees (believed by the claimant to be James Aynsley) go through the claimant's drawers;

...

4.1.7 In around November 2021, one of its employees (believed by the claimant to be Nik Hawes) tie up the curtain behind the claimant's desk with string thereby providing visibility of the claimant's workstation;

4.1.8 In around November 2021, one of its employees (believed by the claimant to be Nik Hawes) ultimately remove the curtain behind the claimant's desk altogether and wrongly assert this was done on health & safety grounds;

...

4.1.10 In around June 2022, offer the quality manager role to another candidate, and its employee Lorne Dye explaining this was because the other members of the interview panel did not like the claimant;

4.1.11 In around June 2022, its employee Lorne Dye seeking to dissuade the claimant from applying for a secondment;

4.1.12 Sometime in 2022, persons unnamed informed Sarah Talley (who interviewed the Claimant for a Band 8c role externally to the respondent) that the claimant should not be offered the role;

4.1.13 On multiple occasions at monthly team meetings between October 2022 and September 2023, members of the team (including Nik Hawes, James Aynsley, Sarah Bastow, Imran Ahmed, Amber Crampton, Tamsyn Cromwell, Robert Moore, Jason Brown, Liza Faustino) pick-on and scapegoat the claimant in MS Teams meetings and follow-up emails in the context of her presentation of quality reports;

4.1.14 Task the claimant with action items coming out of the aforementioned monthly meetings that were outside of the claimant's role and which were expected to be completed within deadlines that were unrealistic;

4.1.15 In March / April 2023, its employee Sarah Bastow deny the claimant a secondment opportunity that had been offered to her;

4.1.16 Purposely not invite the claimant to meetings relevant to her role, in particular those in preparation for the annual lab inspection in May 2023;

4.1.17 In May 2023 and again in October 2023, its employee Liza Faustino sought to impose a performance improvement plan on the claimant;

4.1.18 In around June 2023, its employee Liza Faustino humiliate the claimant in front of other team members in the course of a 2 hours quality training session;

...

4.1.20 Its employees (believed by the claimant to include Nik Hawes, James Aynsley and Stephanie Bailey) sharing naked footage of the claimant that had been sent to them by a student she formerly worked with in Cambridge;

4.2 If so, was that unwanted conduct?

4.3 Did it relate to race?

4.4 Did the conduct have the purpose of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant?

4.5 If not, did it have that effect? The Tribunal will take into account the claimant's perception, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.

...

Victimisation (Equality Act 2010 section 27)

6.1 Did the claimant do a protected act as follows:

6.1.1 On 10 November 2021 raise a grievance about various matters;

6.1.2 On 8 June 2023 raise a grievance about quality training delivered by Liza Faustino that the claimant alleged undermined her work and had racial undertones;

6.1.3 On 23 July 2023 raise a grievance about Liza Faustino's handling of her appraisal, alleging bullying and harassment.

6.2 Did the respondent do the following things:

6.2.1 In around June 2022, offer the quality manager role to another candidate, and its employee Lorne Dye explaining this was because the other members of the interview panel did not like the claimant;

6.2.2 In around June 2022, its employee Lorne Dye seeking to dissuade the claimant from applying for a secondment;

6.2.3 Sometime in 2022, inform interviewers for a Band 8c role externally to the respondent that the claimant should not be offered the role;

6.2.4 On multiple occasions at monthly team meetings between October 2022 and September 2023, members of the team (including Nik Hawes, James Aynsley, Sarah Bastow, Imran Ahmed, Amber Crampton, Tamsyn Cromwell, Robert Moore, Jason Brown, Liza Faustino) pick-on and scapegoat the claimant in MS Teams meetings and follow-up emails in the context of her presentation of quality reports;

6.2.5 Task the claimant with action items coming out of the aforementioned monthly meetings that were outside of the claimant's role and which were expected to be completed within deadlines that were unrealistic;

6.2.6 In March / April 2023, its employee Sarah Bastow deny the claimant a secondment opportunity that had been offered to her;

6.2.7 Purposely not invite the claimant to meetings relevant to her role, in particular those in preparation for the annual lab inspection in May 2023;

6.2.8 In May 2023 and again in October 2023, its employee Liza Faustino sought to impose a performance improvement plan on the claimant;

6.2.9 Its employees Lorne Dye and Sarah Bastow not giving credit to the claimant for the lab inspection ultimately being passed;

6.2.10 In around June 2023, its employee Liza Faustino humiliate the claimant in front of other team members in the course of a 2 hours quality training session;

6.2.11 In around June 2023, its employee Barbara Aukett pressurise the claimant to drop her second grievance and/or to deal with it informally;

*6.2.12 In around June 2023, its employee Karen Hilton inappropriately sharing an email discussing the claimant's sick leave with other colleagues;*

*6.2.13 Fail to properly resolve the claimant's second grievance brought in June 2023;*

*6.2.14 Fail to properly resolve the claimant's third grievance brought in July 2023.*

*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?*

*6.5 Was it because the respondent believed the claimant had done, or might do, a protected act?"*

7. In January 2025, an in-person hearing was listed for five days, beginning on 11 August 2025. The Claimant did not raise any objection to an in-person hearing.
8. On 4 August 2025 the Claimant requested to attend by CVP. This request was denied by EJ Heath as the Claimant had not given a good reason why she was unable to attend in person. On 8 August 2025 the Claimant emailed the Tribunal and said she did not plan to attend the hearing. She did not give any reason.
9. On the first day of the hearing, 11 August 2025, the Tribunal replied to the email of 8 August 2025 and said that the panel would read until 2pm and would then sit, setting out that there may be consequences for the Claimant's case if she did not attend. A further request to attend via CVP made by the Claimant on the morning was denied, because the Claimant had still not shown any good reason why she was unable to attend in person. The Claimant did not attend the hearing and made no further attempt to contact the Tribunal.
10. Ms Winstone applied for the case to be dismissed due to Claimant's failure to attend and pursue her claim. In the alternative Ms Winstone applied for the Tribunal to strike the claim out for that reason. The Tribunal decided to proceed with the hearing. The panel gave its reasons as follows:
  - (a) Any prejudice caused to the Claimant by proceeding in her absence was entirely the result of her own actions.
  - (b) The Respondent would not suffer serious prejudice as it could still present its case.
  - (c) Proceeding would allow the panel to ask questions to the witnesses to clarify any parts of the evidence the Tribunal did not understand.
11. The hearing took place over 11 and 12 August 2025.
12. The following are the panel's unanimous reasons for its judgment in respect of those issues.

### **Procedure, documents, and evidence heard**

13. The panel have seen a bundle of 616 pages, a witness statement bundle of 75 pages, and a chronology/cast list of 7 pages.

14. The Claimant did not attend the hearing, and no witnesses were called on her behalf.
15. The following witnesses gave brief, clarificatory, oral evidence on behalf of the Respondent:
  - (a) Mr Nik Hawes;
  - (b) Ms Liza Faustino; and
  - (c) Ms Sarah Bastow.
16. The following witness statements were accepted by the panel as read:
  - (a) The Claimant's;
  - (b) Ms Tamsyn Cromwell;
  - (c) Mr Murray Seivwright;
  - (d) Ms Henrietta Sweet;
  - (e) Ms Barabara Aukett; and
  - (f) Ms Lorne Dye.
17. In making this decision, we have taken account of all of the evidence before me, even if we have not mentioned any specific part of it.

### **Fact findings**

18. It should be noted from the outset that the Claimant's non-attendance at the hearing has had two obvious impacts which apply across the board. They are that:
  - (a) First, the Claimant was not able to put her case to the Respondent's witnesses or challenge their evidence.
  - (b) Second, the Claimant was not able to explain any inconsistencies in her evidence.
19. It is also worth noting that the Claimant's grounds and her statement repeatedly accuse the Respondent of "*gross misconduct*", "*institutional racism*", "*systemic racism*", "*psychological abuse*", "*micromanagement*", "*workplace mobbing*", "*microaggressions*", "*harassment*", "*victimisation*", "*bullying*", "*undermining*", "*gaslighting*", and similar accusations. However, the Claimant's claim is confined to those issues which are set out in the list of issues. It is not for the Tribunal to undertake any form of general assessment of the Respondent's conduct outside that list of issues, nor would it be proportionate (with a view to the overriding objective) to do so.
20. It will be convenient to deal with the facts, and make findings, in chronological order.
21. The Claimant's employment began in December 2020 as set out above. She was based at the Royal Sussex County Hospital. Her role was originally a dual role – 3 days of quality work and 2 days of lab work. This was later changed to focus solely on the quality work.
22. The Claimant complains that the Respondent failed to provide her with a secure locker on starting her role. Mr Hawes said that no lockers were available at the time and he put her down for the next one. This account was not challenged by the Claimant. The Claimant says in her statement

that people joined later and were given lockers. It is not clear from her statement whether she herself had been given a locker by that time.

23. We find that the reason the Claimant was not given a locker was because one was not available and that her manager made reasonable efforts to locate her one.
24. The Claimant complains that she was placed in a cold, dark, cramped office away from others. This is identified in the bundle on a floor plan as room B6.33.
25. In the bundle is evidence consisting of emails to show that in December 2020 the Claimant was originally placed in the laboratory outside room B6.33, and that she complained because it was too noisy. The Claimant said on 21 January 2021 that *"I'm not sure whether the laboratory will be a suitable area for me to work in the laboratory day to day as it will be very noisy for me to work long term and working fulltime."* A further email from the Claimant on the same day specifically requests a move to room B6.33 as *"Gary has now left and his office is vacant, I do not understand why I cannot use his office"*. The Claimant was not present to explain these inconsistencies in the evidence.
26. It is clear from this evidence that the Claimant herself chose to move to room B6.33 in January 2021.
27. There are no complaints in the bundle, at all, about the room being cold, dark, or cramped. In respect of the latter, one of the reasons the Claimant chose this office was to use a larger desk, and being moved away from it asked for and was given another large desk. This undermines any assertion that the office was cramped.
28. There are photos of room B6.33 in the bundle. They do not show it as being dark or cramped. It is of course impossible to form any view on the temperature from the photos.
29. We find that the Claimant chose to work in this room of her own free will, and that the Claimant has failed to prove that it was cold, dark, or cramped.
30. The Claimant complains that the room was called 'the black room', and this was because black members of staff were segregated there. However she later says that she was the only black member of staff. We have found above that she located herself in this office voluntarily. Both of these undermine her complaints. The Claimant was not present to explain these inconsistencies in the evidence.
31. The Respondent denies that this office was known as 'the black room', or for that reason. The Respondent says the office was known by a number of names, including 'the dark room'. This is because it was previously used for immunofluorescence immunology testing. Mr Hawes clarified in oral evidence that this type of testing involved looking at slides to see if microbes fluoresced, which needed to be done in a dark environment. The room was



accordingly fitted with blackout curtains to block the light from outside. This account was not challenged by the Claimant.

32. We are satisfied that this office was called 'the dark room' because of its previous use as a dark room for light sensitive testing. The Claimant has failed to discharge the burden of proof to demonstrate that it was called 'the black room' or that it was used for the purpose of segregating black staff.
33. In April 2021 the Claimant was moved to a different desk within office B6.33, following the recruitment of a new Clinical Scientist Kade Flowers. The desk the Claimant had been working at in room B6.33 was assigned to him.
34. The Claimant complains that her desk was assigned to Mr Flowers without any warning, and that her concerns about the move were rudely dismissed.
35. However, there is evidence in the bundle that the Respondent waited for Claimant to return from annual leave before moving her to a different desk, so that she could be told what was going on. There are emails from the Claimant which indicate that she is happy with the move. There are no emails or other evidence which express any concerns, about privacy or anything else.
36. A new desk was requested and ordered for the Claimant, and the Claimant again indicated that she was happy with the new desk, which she described in an email as "*perfect*". There is again no evidence that the Claimant expressed any concerns at the time.
37. The tone of all communications to and from the Claimant is polite and positive. The Claimant was not present to explain these inconsistencies in the evidence.
38. There is no evidence whatsoever that the Claimant was not consulted about the move, or that she shared any concerns about it, or that those concerns were dismissed, rudely or otherwise. We find that she was fully consulted in and content with the process and shared no concerns.
39. In October 2021 the Claimant moved of her own initiative, back to the desk she was originally using in room B6.33. She removed the personal possessions of Mr Flowers from the desk.
40. The Respondent draws our attention to the Claimant's claim that Kade Flowers confronted her about this and was unprofessional and abusive. However the contemporaneous evidence of witnesses to the incident describe Mr Flowers as calm and the Claimant as being hostile, abusive and unprofessional, telling Mr Flowers to "*get over himself*" and "*deal with it*" and then storming off. The Respondent submits that this detracts from the Claimant's credibility. The Claimant was not present to explain these inconsistencies in the evidence.
41. We do not feel that we need to make a general finding about the Claimant's credibility as there is sufficient evidence in front of us to deal with the claims.

42. The Claimant complains that people were going through her desk drawers. She gives no further detail. The Respondent denies this and the Claimant has not challenged the account of the Respondent's witnesses.
43. We note that it is not said that the Claimant's possessions were moved or missing. It was a hot desking area, so it equally possible somebody else was just using the desk. There is no evidence to show any malicious intent.
44. The onus is on the Claimant to prove to the relevant standard that people had gone through her desk drawers, and she has not done so.
45. At around this time the blackout curtains in room B6.33 began to be tied back. We do not know who did this or why. The Respondent accepts that this happened but has been unable to tell us who did it or why.
46. The Claimant was upset by this. She said that she was dealing with sensitive information which required privacy to work. However the evidence of the Respondent is that the information the Claimant dealt with was not any more sensitive than information being worked upon by other members of staff working in open plan. There was no evidence in front of us to show that the information Claimant was working with was particularly confidential or sensitive.
47. The curtains were eventually removed. The Claimant has suggested that the Respondent was monitoring her. The Respondent denies this. The Respondent's evidence was not challenged by the Claimant.
48. We did not find it easy to understand why the curtains were tied back or removed, although at some point a health and safety reason was given: namely ensuring the safety of the Claimant, a lone worker, in a case of emergency.
49. The Claimant responded to the removal of the curtain by putting paper over the window. On 8 November 2021 she was challenged and asked to remove this, as it was a fire, or safety, hazard. The Claimant refused to comply and robustly defended her position.
50. On 10 November 2021 the Claimant made her first grievance about Mr Flowers. In line with the Respondent's policy (a copy of which was in the bundle) and general workplace practice, efforts were made to resolve this informally.
51. On 23 November 2021 the Claimant's first grievance was discussed at an informal meeting. Emails in the bundle indicate that the matters were resolved by allowing the Claimant to remain at the desk she had chosen in room B6.33, and by replacing the curtain with a blind.
52. The Claimant complains that the Respondent pressurised her to drop her first grievance and/or deal with it informally.
53. However, it is clear to us that the Respondent was following their own policy, which instructs the Respondent's staff to try informally resolving a grievance

first. We are satisfied that in doing so the Respondent was going through their proper processes, and that attempting to resolve a grievance informally is reasonable workplace practice in any case.

54. We also note that the Claimant was content with the outcome. The record of the meeting says that the Claimant "*confirmed that [she] was happy with the above and [had] no further concerns*". The Claimant has not challenged this evidence. She did not seek to escalate the grievance to a formal process, or challenge the outcome, which was in any case favourable to her.
55. We accordingly find that there was no pressure put upon the Claimant to drop the grievance or deal with it informally
56. The Claimant also complains that the Respondent failed to resolve her first grievance. The evidence does not support that. The grievance was resolved, with an outcome favourable to Claimant, which she did not escalate or further challenge. The Claimant instead accepted that outcome.
57. On 7 January 2022 the Claimant's appraisal was completed and signed. The Claimant takes no point about this.
58. In June 2022 the Claimant applied for the role of Band 8b Interim Pathology Quality Manager. The Claimant was shortlisted for interview, and attended an interview, but the role was given to another candidate.
59. The Claimant complains that the role was offered to another candidate because the interview panel did not like the Claimant. The Respondent denies this, and has put forward evidence to show that the other, successful candidate, had scored significantly higher in interview than the Claimant. The Respondent also relies upon the fact that the successful candidate had more experience or working at the senior, band 8, level. The Claimant did not challenge this evidence.
60. We are satisfied that the role was not offered to the Claimant for the reason that the other candidate scored better at interview. We are supported in our finding by the fact that there was a big gap in the scoring between the two candidates, with the other candidate having performed significantly better than the Claimant.
61. In January 2023 the Claimant applied for funding for a training programme. She was informed by Mr Hawes that Ms Faustino, the Claimant's new line manager, would discuss this as part of the Claimant's next appraisal. That appraisal never happened.
62. In February 2023 the Claimant applied for a secondment of 6 months as a band 8A Divisional Pathology Quality Manager. She was successful and was offered the role.
63. Ms Faustino first learned of the secondment while trying to fix a date for the Claimant's appraisal. The Respondent's policy (which is contained in the bundle) is that a candidate must secure the consent of their line

management before they can go on secondment. It was not clear to the panel why the Claimant's line management were not made aware of the proposed secondment until this point, or who was responsible for doing so.

64. A conversation took place between Ms Flynn (who had offered the secondment) and Ms Bastow (representing the Claimant's current management team). Ms Bastow said that she needs the Claimant to remain in her current role in order to prepare for an imminent UKAS inspection. Ms Bastow did not say she was unwilling to release the Claimant on secondment, but rather that she could not do so "*until the end of June*".
65. It was explained to the panel that UKAS conduct a regular triennial inspection to renew the R's accreditation to carry out screening services. The inspection was compared to an OFSTED inspection: an important event which required the close attention of senior managers. Ms Faustino explained in her oral evidence that there would be significant reputational and economic consequences for the Respondent if the inspection failed and accreditation was removed.
66. An important part of the inspection is checking the quality procedures, which were the Claimant's responsibility. Ms Faustino said that as a result she could not support the Claimant's proposed move until the inspection had finished at the end of June 2023. She needed the Claimant to remain in her business critical role until then.
67. On 24 March 2023 the offer of a secondment was rescinded by Ms Flynn. The reason given is that funds had become available to enable Ms Flynn to recruit the role permanently (and accordingly that there was no longer any need for temporary cover). The Claimant was informed that she could apply for the role when it is advertised permanently, and that she will be guaranteed an interview.
68. The Claimant claims that she was dissuaded from applying for a secondment, or in the alternative that the secondment panel were told not to appoint the Claimant. The Respondent denies this. The Claimant has not challenged the Respondent's account.
69. We are content that the Claimant was not dissuaded from applying for a secondment. Rather she was allowed to do so. We are also content that the panel was not told not to select her: they in fact did so. We note that Ms Faustino and Ms Bastow did not object to the secondment in principle. They only asked that it be deferred until the end of June, as soon as the UKAS inspection was over. We further note that even when the offer of a secondment was withdrawn, the Claimant was supported to apply for the permanent role, and was guaranteed an interview. There is no evidence whatsoever to suggest that she was dissuaded from applying or otherwise prevented from taking part. We find that this was not the case.
70. The Claimant claims that she was denied a secondment opportunity that was offered to her.

71. However the evidence as we have set out above is clear that both Ms Faustino and Ms Bastow proposed a delay to the secondment rather than denying it, that this was because the Claimant was in a business critical role at the time of a UKAS assessment (which if failed would have far reaching consequences), and that it was in fact rescinded by Ms Flynn for another reason, namely that the position would now be recruited permanently.
72. We find that the reason the Claimant was denied a secondment opportunity was because she was in a business critical role, and because events overtook the offer as there was no need for temporary cover for the role.
73. In April 2023 the Claimant expressed an interest in attending NHS Elect Leadership Development programme. On 22 May 2023 she was told that she cannot attend as the course is over-subscribed.
74. The Claimant points to the fact that the Respondent is a large organisation with a large training budget. Ms Bastow explained in oral evidence that that this budget was ring fenced and so dedicated funding was not available to the Claimant's team. That team had to make a business case to apply for funding from other budgets for training. The Claimant was offered apprenticeship training instead, for which funding was available, but chose not to take up that offer.
75. We note that the only other references to training in the contemporaneous evidence are Ms Faustino's requests to the Claimant that she confirm what training she was undertaking, and the Claimant refusing to supply that information. Ms Faustino offered to discuss training as part of the appraisal process, but the Claimant refused to engage in that process.
76. The Claimant complains that the Respondent repeatedly denied her training opportunities. The Respondent denies this. The Claimant has not challenged the Respondent's account.
77. There is only evidence of one training opportunity that was denied to the Claimant, namely the leadership course. We are content that this was denied because the course was oversubscribed. The Claimant was offered alternative training but failed to take up that offer. The Claimant was clearly undertaking other training of her own initiative and refusing to engage with her managers who were asking about it. There is no evidence that the Claimant requested and was denied anything other than the one course that was oversubscribed. We accordingly find that the Claimant was not denied training opportunities.
78. The UKAS inspection took place in May 2023. Ms Faustino described how she had to join a meeting between the inspector and the Claimant because the Claimant was struggling to answer the inspector's questions. The Claimant left the meeting an hour later, leaving Ms Faustino to answer the inspector's questions. As a result, the lead inspector raised a number of concerns about the Claimant's work.

79. The UKAS inspection was unfortunately not a success. The inspectors raised 75 issues on which they required further information and/or assurances.
80. Twelve of these were assigned to the Claimant by Ms Faustino at a meeting on 23 May 2023. Ms Faustino says that this was because these twelve issues related to quality control within the Claimant's team, and the Claimant was responsible for that area. The Claimant has not challenged this account. The inspectors wanted the information and assurances within four weeks.
81. Ms Faustino wrote these twelve actions up as a Personal Improvement Plan ('PIP') for the Claimant. A copy is in the bundle. The note of the meeting also recorded that:
- (a) evidence of the Claimant's signed off competencies was missing;
  - (b) the four week deadline and the importance of meeting it was noted; and
  - (c) the Claimant had walked out of the informal meeting before it had ended.
82. On 30 May 2023 the Claimant made a lengthy complaint to Ms Faustino about the informal review and PIP. The Claimant suggested a new plan, in which three of the actions assigned to her would be delegated to others. She said that she would be raising a formal grievance.
83. On 2 June 2023 the Claimant met with Ms Faustino to discuss the PIP. The record of the meeting shows that the PIP was replaced by alternative arrangements were made to undertake the actions.
84. There is also evidence in the bundle to suggest that the Claimant at the time was being obstructive and refusing to comply with management requests.
85. Ms Faustino and the other managers at the time appeared, understandably, to be primarily concerned about getting the information to the UKAS inspectors rather than dealing with the Claimant's behaviour.
86. The Claimant complains that the Respondent sought to impose a PIP on the Claimant.
87. We are content from the evidence set out above that, while the Respondent initially did impose a PIP upon the Claimant, it was removed after her complaint.
88. We are also content that Claimant was being asked to do jobs relevant to her role, and she was refusing to do so. This includes:
- (a) refusing to submit an appraisal form;
  - (b) refusing to attend an appraisal meeting;
  - (c) refusing to confirm details of training that she was booked to attend, so it could be moved to accommodate the appraisal;
  - (d) refusing to review feedback from UKAS;
  - (e) attempted to delegate tasks to other staff;
  - (f) refusing to carry out further temperature monitoring;

- (g) stating to managers that she would not discuss work with them any longer: the words she used were “*This will be my last email I am sending out on this matter*”; and
  - (h) accusing managers of bullying when they challenged her clearly inappropriate and unacceptable behaviour.
89. It is clear to us that that Respondent’s focus was on getting the necessary work done to comply with the requests for information and assurances made by UKAS.
90. The Claimant makes a number of complaints that at this time she was picked on and scapegoated at multiple team meetings, and/or deliberately not invited meetings relevant to her role (such as preparation for the UKAS inspection. The Claimant does not give specifics about any of these. She did not say which meetings she was not invited to, nor what was said at them.
91. The evidence in the statements and the bundle is that:
- (a) electronic invites for meetings were sent to the Claimant; and
  - (b) she would choose not to attend, or attend with her camera off (despite being requested to join with camera on).
92. We are content that the Claimant was not excluded from meetings. She was invited to meetings. The onus is upon the Claimant to prove that she was picked on or scapegoated at the meetings she did choose to attend. She has not done so.
93. The Claimant also claimed that she was given tasks that were not relevant to her role and set unrealistic deadlines. No further details are given. The Claimant did not attend to give any further clarificatory details.
94. The bundle contains details of tasks given to her which related to quality, in her role as quality officer. We are satisfied that this was not inappropriate. The tasks were twelve of 75 actions requested by UKAS of the department as a whole. The four week deadline had been set by UKAS and the Respondent had no control over it. Indeed, the Claimant does not appear to have begin to engage with the tasks assigned to her for a period of some two weeks. The resulting pressure on the deadline came from the Claimant’s initial refusal to engage with the tasks assigned to her.
95. We are content that the Claimant was given tasks related to her role and that the timescales were not in the circumstances unrealistic.
96. On 8 June 2023 Ms Faustino delivered some training about the UKAS inspection. The slides are in the bundle, and they show screenshots of the Claimant’s screen on which her name can be seen. Ms Faustino explains that the purpose of the training was to explain to the team why UKAS were not content with quality issues, so that the team could do better in the future. As a result it was obvious that the Claimant’s name, as the person responsible for quality issues, would come up – and, if redacted, it would have been obvious whose name was redacted. We also bear in mind that

the outcome of the inspection would be well known to the team at this point. The Claimant did not challenge this account.

97. The Claimant complains of being humiliated at the training session, that it contained racial undertones, and that it focused on mistakes made by different races.
98. We can understand why the Claimant might feel uncomfortable given that her name was linked to recent failures picked up by an external inspectorate. But we consider that this would be widely known within the team at the time. We are content that the purpose of the exercise was to learn from past mistakes and avoid future ones, rather than to humiliate the Claimant. Her name was there because of her job role, for no other reason. We are also content that there is no evidence of racial undertones or of criticism directed by or at the race of the Claimant or anybody else.
99. On 29 July 2023 the Claimant submitted her second grievance, about Ms Faustino. The grievance related to Ms Faustino's efforts to schedule her appraisal, which had now been outstanding for some six or seven months.
100. On 11 August 2023 the Claimant made her third grievance. This was in relation to being asked to work on matters arising from the UKAS inspections, asserting that she was being set up as a scapegoat for the failings identified by UKAS, and including allegations that her professional development was being sabotaged.
101. On 24 August 2023 the department was passed by UKAS, pending a re-assessment in 2 months to ensure that all remaining improvement actions have been completed. Ms Faustino sent a thank you email to the department. Ms Bastow replied, also congratulating all staff and adding "*a huge thankyou*" to Ms Faustino for her work in co-ordinating the response to UKAS.
102. The Claimant complains that Ms Bastow failed, in her email, to give the Claimant any credit for her role in the inspection being passed. However, we note that:
  - (a) First, the email was sent to all staff. There was no evidence that the Claimant was excluded.
  - (b) Second, the only person named in emails was the manager in charge of the whole project. No other staff member was singled out for recognition.
  - (c) Third, that it was wholly unrealistic for the Claimant to expect that she would be singled out for praise over and above other members of staff. She had been assigned only twelve of 75 actions. She had initially refused to engage with them, despite their importance and the short deadline. She had then refused to do some of these tasks and attempted to delegate them to others. She was, in short, being unhelpful.
103. We are content that it was wholly unrealistic of the Claimant to expect bespoke thanks as part of a general thank you email. There was no failure to give her credit for her actions. She received the same thanks as everyone else who had contributed to the 75 actions.



104. We pause to note that the list of issues, with which no party has taken issue, fixes the date of 25 August 2023 as being the effective date of limitation.
105. On 30 August 2023 the Claimant added further allegations of discrimination, harassment, victimisation, bullying and abuse to her extant grievances.
106. On 8 September 2023 the Claimant attended a formal resolution meeting.
107. On 12 September 2023 Ms Bastow met with the Claimant about her appraisal and asked for some information, including details of training the Claimant had been undertaking.
108. The formal resolution meeting was reconvened on 13 October 2023.
109. Ms Bastow chased her request for information about the appraisal up on 12 October 2023. The Claimant did not provide the requested information.
110. On 27 October 2023 the Claimant's second and third grievance were not upheld by Mr Randall. The findings are contained in a letter which is in the bundle. The letter notes that some relationships appear to have broken down, including with Ms Faustino and Ms Bastow, and recommends mediation to help restore those relationships.
111. Also on 27 October 2023 the Claimant called in sick with a migraine. She was then off work for work related stress for a lengthy period.
112. The Claimant appealed the outcome of the second grievance on 2 November 2023.
113. An appeal hearing took place on 12 February 2024. The Claimant did not attend.
114. The appeal was dismissed by Mr Seivwright on 19 February 2024. Mr Seivwright endorsed the recommendations for mediation in order to rebuild workplace relationships made by Mr Randall.
115. The Claimant complains that she was pressurised her to drop her second grievance and/or deal with it informally. However this is plainly not the case. The Respondent followed the correct process, as set out above, by seeking an informal resolution. When that was not possible, the grievance was taken forward by the Respondent, even after the Claimant has gone off sick.
116. We are accordingly content that the Claimant was not pressurised to drop the second grievance or to deal with it informally.
117. The Claimant complains that her second and third grievance were not resolved. However this is plainly not the case. They were resolved, after

a formal meeting at which the C had the opportunity to present evidence and make submissions, and after an appeal.

118. We are content that the grievances were in fact resolved, although we appreciate the Claimant may disagree with the outcome.

119. The Claimant was returned to work as part of a phased return which began in December 2024 and ended in January 2025. As set out above she resigned in March 2025 and her employment ended in May 2025.

120. The Claimant takes no issue about her employment coming to an end.

121. Finally, there are two discrete issues:

(a) The Claimant complains at some point that between 2021 and 2023 employees of the Respondent viewed naked footage of her. There is no documentary evidence. The Respondent and Mr Hawes deny it. The Respondent has not been able to recover any footage on their system. The Claimant has not challenged this account. The same complaint has been withdrawn in the context of sexual harassment. It is possible that it should also have been withdrawn in relation to the remaining claims, but has been overlooked. To the extent that we need to deal with it, we can do so by finding that the Claimant has failed to put forward any evidence to prove that this happened at all.

(b) The Claimant complains that information about her sick leave was inappropriately shared in June 2023. The Respondent says that it was necessary to let the team know about the Claimant's absence so they could reallocate the time critical work of responding to UKAS. We note that this claim was withdrawn in respect of harassment related to race. It is possible that it should also have been withdrawn in relation to the remaining claims, but has been overlooked. To the extent that we need to deal with it, we can do so by finding that the information about the Claimant's sick leave was appropriately shared for work planning purposes.

## **The law**

### *Direct discrimination (section 13 of the Equality Act)*

122. Section 13(1) of the Equality Act 2010 provides that:

“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”

123. The protected characteristic in this case is race: sections 4 and 9 Equality Act 2010. The Claimant says that she is ‘non-white’ and ‘a woman of colour’. She gives no further details. The Respondent accepts that she has the protected characteristic of race.

124. In order to succeed with a claim of direct discrimination under section 13, a claimant must have been treated less favourably than a comparator who was in the same, or not materially different, circumstances as the

claimant. In **Shamoon v Chief Constable of the Royal Ulster Constabulary** [2003] ICR 337 Lord Scott explained that this means that *“the comparator required for the purpose of the statutory definition of discrimination must be a comparator in the same position in all material respects as the victim save only that he, or she, is not a member of the protected class”*.

125. **Shamoon** also reminds us that tribunals attempting to identify an appropriate actual or hypothetical comparator run the risk of failing to focus on the primary question. This is why was the complainant treated as they were? If there were discriminatory grounds for that treatment, then there will usually be no difficulty in deciding whether the treatment was less favourable than was or would have been afforded to others.
126. Where a comparison with an actual comparator is possible, there is no obligation on the tribunal to construct a hypothetical comparator. In **Williams v HM Prison Service** EAT 1236/00 the EAT rejected the suggestion that a tribunal should construct a hypothetical comparator in circumstances where a comparison with an appropriate actual comparator had revealed no discrimination. However, in the absence of an actual comparator, the question of less favourable treatment needs to be determined by reference to a hypothetical comparator who resembles the claimant in all material respects.
127. In **Gould v St John’s Downshire Hill** [2021] ICR 1, the EAT noted, *“The question is then whether such a person would have been treated more favourably than the claimant in those circumstances. If the answer to this question is that the comparator would not have been treated more favourably, this also points to the conclusion that the reason for the treatment complained of was not the fact that the claimant had the protected characteristic.”*
128. In **Gould** the EAT also commented: *“The question whether an alleged discriminator acted “because of” a protected characteristic is a question as to their reasons for acting as they did. It has therefore been coined the “reason why” question and the test is subjective... For the tort of direct discrimination to have been committed, it is sufficient that the protected characteristic had a “significant influence” on the decision to act in the manner complained of. It need not be the sole ground for the decision... the influence of the protected characteristic may be conscious or subconscious.”*
129. The Equality and Human Rights Commission’s Employment Statutory Code of Practice (‘the ERHC Code’) notes that the motive or intention behind the treatment complained of is irrelevant. It is not a defence for an employer faced with a claim under section 13 to show that it had a good reason or a benign motive for discriminating: **James v Eastleigh Borough Council** [1990] ICR 554.
130. Section 136 of the Equality Act 2010 provides, in essence, that where a claimant proves facts from which a tribunal could conclude in the absence of an adequate explanation that the respondent has unlawfully

discriminated against the claimant (a 'prima facie case'), the tribunal must uphold the complaint unless the respondent proves that it did not discriminate. If a claimant establishes a prima facie case of differential treatment from which a tribunal could properly draw an inference that the treatment was because of one of the protected characteristics or because of a protected act, then it will be for the employer to prove that there was some other ground for the treatment.

131. In **Martin v Devonshires Solicitors** [2011] ICR 352, the EAT recognised that if a tribunal can make positive findings as to an employer's motivation, it need not revert to the burden of proof rules at all. This point was later endorsed by the Supreme Court in **Hewage v Grampian Health Board** [2012] ICR 1054. However, in **Gay v Sophos plc** EAT 0452/10, the EAT noted that it is good practice for a tribunal to address the issue of the burden of proof.
132. In **Talbot v Costain Oil, Gas and Process Ltd and ors** [2017] ICR D11, the EAT summarised the following principles for tribunals to consider when deciding what inferences of discrimination may be drawn:
- (a) it is very unusual to find direct evidence of discrimination;
  - (b) normally a tribunal's decision will depend on what inference it is proper to draw from all the relevant surrounding circumstances, which will often include conduct by the alleged discriminator before and after the unfavourable treatment in question;
  - (c) it is essential that the tribunal makes findings about any 'primary facts' that are in issue so that it can take them into account as part of the relevant circumstances;
  - (d) the tribunal's assessment of the parties and their witnesses when they give evidence forms an important part of the process of inference assessing the evidence of the alleged discriminator when giving an explanation for any treatment involves an assessment not only of credibility but also of reliability, and involves testing the evidence by reference to objective facts and documents, possible motives and the overall probabilities;
  - (e) where there are a number of allegations of discrimination involving one person, conclusions about that person are obviously going to be relevant in relation to all the allegations;
  - (f) the tribunal must have regard to the totality of the relevant circumstances and give proper consideration to factors that point towards discrimination in deciding what inference to draw in relation to any particular unfavourable treatment;
  - (g) if it is necessary to resort to the burden of proof in this context, section 136 of the Equality Act provides, in effect, that where it would be proper to draw an inference of discrimination in the absence of 'any other explanation', the burden lies on the alleged discriminator to prove there was no discrimination.

#### *Harassment (Section 26 of the Equality Act)*

133. Section 26 of the Equality Act 2010 states:

*"(1) A person (A) harasses another (B) if –*

- (a) *A engages in unwanted conduct related to a relevant protected characteristic, and*
- (b) *the conduct has the purpose or effect of –*
  - (i) *violating B's dignity, or*
  - (ii) *creating an intimidating, hostile, degrading, humiliating or offensive environment for B.*

134. There are therefore three essential elements of 'harassment', (1) unwanted conduct, (2) that has the proscribed purpose or effect, and (3) which relates to a relevant protected characteristic.
135. In **Richmond Pharmacology v Dhaliwal** [2009] ICR 724, the EAT expressed the view that it would be a 'healthy discipline' for a tribunal in any claim alleging unlawful harassment to address each of these three elements. Although in **Ukeh v Ministry of Defence** EAT 0225/14 it was noted that a tribunal that does not deal with each element separately will not make an error of law for that reason alone.
136. In **Reed and anor v Stedman** [1999] IRLR 299 and **Insitu Cleaning Co Ltd v Heads** [1995] IRLR 4, the EAT held that the word 'unwanted' is essentially the same as 'unwelcome' or 'uninvited'. This is also set out in the EHRC Code at paragraph 7.8.
137. In **Richmond Pharmacology** the EAT also said "*Not every racially slanted adverse comment or conduct may constitute the violation of a person's dignity. Dignity is not necessarily violated by things said or done which are trivial or transitory, particularly if it should have been clear that any offence was unintended*".
138. The EHRC Code states 'a serious one-off incident can also amount to harassment' (paragraph 7.8). The question whether an act is sufficiently 'serious to support a harassment claim is essentially a question of fact and degree (**Insitu Cleaning Co Ltd v Heads**).
139. In deciding whether the conduct has the effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them, each of the following must be taken into account: (1) the perception of the person in question, (2) the other circumstances of the case, and (2) whether it is reasonable for the conduct to have that effect (section 26(4) of the Equality Act 2010).

#### *Victimisation (Section 27 of the Equality Act)*

140. Section 27(1) of the Equality Act provides:  
"*A person (A) victimises another person (B) if A subjects B to a detriment because (a) B does a protected act, or (b) A believes that B has done, or may do, a protected act.*"
141. As a result, a claimant seeking to establish victimisation must show two things: first, that they have been subjected to a detriment, and, second that they were subjected to that detriment because of a protected act.

142. Under section 27(2), each of the following is a protected act

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

143. Whether a general complaint of discrimination amounts to a protected act under section 27(2)(d) will depend on the facts of the case: **Durrani v London Borough of Ealing** EAT 0454/12.

144. In **Shamoon** it was established that a detriment exists if a reasonable worker would or might take the view that the treatment was in all the circumstances to his or her disadvantage. The House of Lords felt that an unjustified sense of grievance could not amount to a detriment but did emphasise that whether a claimant has been disadvantaged is to be viewed subjectively. This test was subsequently confirmed by the House of Lords in **Derbyshire and ors v St Helens Metropolitan Borough Council and ors** [2007] UKHL 16. However, the House of Lords stressed that the test is not satisfied merely by the claimant showing that he or she has suffered mental distress: it would have to be objectively reasonable in all the circumstances.

145. The EHRC Code, drawing on the case law, states: “*Generally, a detriment is anything which the individual concerned might reasonably consider changed their position for the worse or put them at a disadvantage. This could include being rejected for promotion, denied an opportunity to represent the organisation at external events, excluded from opportunities to train, or overlooked in the allocation of discretionary bonuses or performance related awards... A detriment might also include a threat made to the complainant which they take seriously and it is reasonable for them to take it seriously. There is no need to demonstrate physical or economic consequences. However, an unjustified sense of grievance alone would not be enough to establish detriment*” (paragraphs 9.8 and 9.9.).

146. In **Nagarajan v London Regional Transport** [1999] ICR 877 the House of Lords held that if a protected act has a ‘significant influence’ on the employer’s decision-making, discrimination will be made out. Nagarajan was considered by the Court of Appeal in **Igen Ltd (formerly Leeds Careers Guidance) and ors v Wong and ors** [2005] ICR 931, where it was stated that a significant influence is “*an influence which is more than trivial.*”

## Conclusions

### *Limitation*

147. The Order of EJ Sudra has set the date of limitation at 25 August 2023. Neither party has disagreed. We have accordingly considered whether anything that took place before that time was either part of an

ongoing course of conduct, or, if not, whether it would be just and equitable to extend time.

148. We have concluded as follows:

- (a) The Claimant's second and third grievance are clearly part of an ongoing course of conduct as they relate to the same issues. The third grievance is, in effect, an extension of the second. Those grievances were not resolved until after 25 August 2023.
- (b) Those two grievances were about the difficulties that Ms Faustino and the Claimant had encountered when dealing with the UKAS assessment, as well as further complaints around and ancillary to it.
- (c) We are content that all of the complaints which are directly relevant to the UKAS assessment form part of the same course of conduct.

149. However, we did not think that the rest of the claims fell within this course of conduct:

- (a) The Claimant's request to go on a leadership training course two months before the date of limitation was separate from that course of conduct. It was also apparently resolved.
- (b) The Claimant's application to go on secondment as a band 8A Divisional Pathology Quality Manager, which happened five months before the date of limitation, and the offering being rescinded four months before the date of limitation, were separate from that course of conduct.
- (c) The Claimant's application for a permanent role in June 2022, fourteen months before the date of limitation, was separate from that course of conduct.
- (d) The Claimant's first grievance, made twenty months before the date of limitation, was separate from that course of conduct.
- (e) The moves in and out of room B6.33, which took place over a period approximately 2 years before the date of limitation, were separate from that course of conduct.

150. We have not been given any reason why, or can see any reason, why it would be just and equitable to extend time to allow the Claimant to have made these claims out of time – some of them significantly so. She could have made them in time and has given us no reason why she did or could not.

151. We accordingly make the following determination on limitation:

- (a) Items on the List of Issues which did form part of the continuing course of conduct relating to the UKAS assessment are in time, and we will consider them.
- (b) All other items on the List of Issues which did not form part of that continuing course of conduct

152. The practical effect of this decision is that we shall not consider, in respect of direct race discrimination, items 2.1.1-10 and 2.1.12, in respect of harassment related to race, items 4.1.1-12 and 4.1.15, and in respect of victimisation, items 6.2.1-3 and 6.2.6, of the List of Issues as set out above.

153. We deal with the remaining complaints in turn.

*Direct race discrimination*

154. As a result of our decision on limitation, only the following complaints in the List of Issues fall to be considered:

- (a) 2.1.11; and
- (b) 2.1.13 to 18.

*2.1.11 On multiple occasions at monthly team meetings between October 2022 and September 2023, members of the team (including Nik Hawes, James Aynsley, Sarah Bastow, Imran Ahmed, Amber Crampton, Tamsyn Cromwell, Robert Moore, Jason Brown, Liza Faustino) pick-on and scapegoat the claimant in MS Teams meetings and follow-up emails in the context of her presentation of quality reports;*

*...*

*2.1.13 Purposely not invite the claimant to meetings relevant to her role, in particular those in preparation for the annual lab inspection in May 2023;*

*2.1.14 In May 2023 and again in October 2023, its employee Liza Faustino sought to impose a performance improvement plan on the claimant;*

*2.1.15 Its employees Lorne Dye and Sarah Bastow not giving credit to the claimant for the lab inspection ultimately being passed;*

*2.1.16 In around June 2023, its employee Barbara Aukett pressurise the claimant to drop her second grievance and/or to deal with it informally;*

*2.1.17 Fail to properly resolve the claimant's second grievance brought in June 2023;*

*2.1.18 Fail to properly resolve the claimant's third grievance brought in July 2023"*

155. The first question we have asked ourself: was there less favourable treatment? In other words, was the Claimant treated worse than someone else was treated?

156. The Claimant has identified a number of named comparators, but has given no evidence about how they were treated differently, with the sole exception of saying that Ms Faustino was credited by name for successfully leading the response to the UKAS investigation.

157. In the presence of named comparators, it is unnecessary for us to consider a hypothetical comparator.

158. It is for the Claimant to establish facts which may, in the absence of an explanation, give rise to the potential for a finding of less favourable treatment. We remind ourselves of the findings of fact that we have made, as set out above.

159. We have found, for the reasons given above, that the Claimant was not treated less favourably in respect of:



- (a) Invitations to, or conduct, of meetings. It follows that the Claimant has been unable to establish any less favourable treatment in respect of complaints 2.1.11 and 2.1.13.
- (b) Emails of thanks. We have found that it was wholly unrealistic for the Claimant to expect bespoke thanks for resolving the UKAS inspection. It follows that the Claimant has been unable to establish any less favourable treatment in respect of complaint 2.1.15.
- (c) Resolution of grievances. There was no pressure to resolve the Claimant's second grievance informally. The second and third grievances were in fact resolved. It follows that the Claimant has been unable to establish any less favourable treatment in respect of complaints 2.16 to 2.18.

160. In such circumstances it is not necessary to consider those complaints any further. The burden was on the Claimant to make out her case. She has put forward an untested account, failed to affirm it or allow it to be tested, and has failed to challenge the Respondent's response. She has failed to discharge the burden of proof.

161. We considered that it was possible that the imposition of a PIP might be seen as less favourable treatment (complaint 2.1.14).

162. We go on to ask the second question, was the less favourable treatment 'because of' the Claimant's race?

163. It is clear to us that the imposition of a PIP had nothing to do with the Claimant's race. The Respondent was trying to resolve important issues highlighted by an external inspector, within a tight time frame, to avoid potentially significant reputational and economic consequences. The use of a PIP was secondary to the main motivation of the Respondent, which was to resolve the issues raised by UKAS. The choice of a PIP as a vehicle for doing so may have been inapt. But it had nothing to do with the Claimant's race, and everything to do with the UKAS inspection.

164. In such circumstances it is not necessary to consider this complaint any further. The burden was on the Claimant to make out her case. She has put forward an untested account, and has failed to challenge the Respondent's response. She has failed to discharge the burden of proof.

165. We have considered, for the sake of completeness, whether the burden of proof has passed to the Respondent in respect of any of these allegations. It is clear from our findings above that we do not – at no stage were any of the complaints that have been substantiated made because of the Claimant's race. However, if we are wrong about that, we are satisfied that the Respondent has put forward reasonable explanations, as recorded above, for each and every one.

166. For those reasons, the claim of direct race discrimination must fail.

*Harassment related to race*

167. As a result of our decision on limitation, only the following issues fall to be considered:

- (a) 4.1.13 to 14;
- (b) 4.1.16 to 18; and
- (c) 4.1.20

*4.1.13 On multiple occasions at monthly team meetings between October 2022 and September 2023, members of the team(including Nik Hawes, James Aynsley, Sarah Bastow, Imran Ahmed, Amber Crampton, Tamsyn Cromwell, Robert Moore, Jason Brown, Liza Faustino) pick-on and scapegoat the claimant in MS Teams meetings and follow-up emails in the context of her presentation of quality reports;*

*4.1.14 Task the claimant with action items coming out of the aforementioned monthly meetings that were outside of the claimant's role and which were expected to be completed within deadlines that were unrealistic;*

...

*4.1.16 Purposely not invite the claimant to meetings relevant to her role, in particular those in preparation for the annual lab inspection in May 2023;*

*4.1.17 In May 2023 and again in October 2023, its employee Liza Faustino sought to impose a performance improvement plan on the claimant;*

*4.1.18 In around June 2023, its employee Liza Faustino humiliate the claimant in front of other team members in the course of a 2 hours quality training session;*

...

*4.1.20 Its employees (believed by the claimant to include Nik Hawes, James Aynsley and Stephanie Bailey) sharing naked footage of the claimant that had been sent to them by a student she formerly worked with in Cambridge*

168. We have first asked ourselves whether there was unwanted conduct. We remind ourselves of the findings of fact that we have made, as set out above.

169. We have found that the Respondent did not:

- (a) Pick on and scapegoat the Claimant at meetings (complaint 4.1.13).
- (b) Task her with items that were outside of her role and with unrealistic deadlines (complaint 4.1.14).
- (c) Fail to invite the Claimant to meetings (complaint 4.1.16).
- (d) Humiliate the Claimant at a training meeting (complaint 4.1.18).
- (e) Share naked footage of the Claimant, and we note that this complaint has been withdrawn in another context (complaint 4.1.20).

170. These may have been perceived by the Claimant as unwanted conduct. But given our findings that they did not happen, it is not necessary to consider them further.

171. The Claimant obviously perceived them as having the prescribed purpose or effect. Given our findings, it is not necessary to consider whether

this was a reasonable perception. But had we done so, we would have concluded, for the reasons set out above, that it is not.

172. We are also satisfied, for the reasons that we have set out above, that none of this conduct was related to race.

173. We accept that, as above, the imposition of a PIP might be seen as unwanted conduct (complaint 4.1.1.17). It may have been perceived by the Claimant as having the prescribed purpose or effect.

174. We are however clear that it was not related to race, for the reasons given above. For that reason, it is not necessary to make findings about prescribed purpose and effect. But had we done so, we would have concluded, for the reasons set out above, that it did not.

175. The burden was on the Claimant to make out her case. She has put forward an untested account, and has failed to challenge the Respondent's response. She has failed to discharge the burden of proof.

176. For those reasons, the claim of harassment related to race must fail.

#### *Victimisation*

177. The Claimant says that her three grievances (of 10 November 2021, 8 June 2023, and 23 July 2023) are protected disclosures. The Respondent admits that they are protected disclosures.

178. Given our decision on limitation above, it is only necessary to consider the second and third grievances, and only the following issues fall to be considered:

(a) 6.2.4 to 5; and

(b) 6.2.7 to 14.

*6.2.4 On multiple occasions at monthly team meetings between October 2022 and September 2023, members of the team (including Nik Hawes, James Aynsley, Sarah Bastow, Imran Ahmed, Amber Crampton, Tamsyn Cromwell, Robert Moore, Jason Brown, Liza Faustino) pick-on and scapegoat the claimant in MS Teams meetings and follow-up emails in the context of her presentation of quality reports;*

*6.2.5 Task the claimant with action items coming out of the aforementioned monthly meetings that were outside of the claimant's role and which were expected to be completed within deadlines that were unrealistic;*

*6.2.6 ..*

*6.2.7 Purposely not invite the claimant to meetings relevant to her role, in particular those in preparation for the annual lab inspection in May 2023;*

*6.2.8 In May 2023 and again in October 2023, its employee Liza Faustino sought to impose a performance improvement plan on the claimant;*

*6.2.9 Its employees Lorne Dye and Sarah Bastow not giving credit to*

*the claimant for the lab inspection ultimately being passed;*

*6.2.10 In around June 2023, its employee Liza Faustino humiliate the claimant in front of other team members in the course of a 2 hours quality training session;*

*6.2.11 In around June 2023, its employee Barbara Aukett pressurise the claimant to drop her second grievance and/or to deal with it informally;*

*6.2.12 In around June 2023, its employee Karen Hilton inappropriately sharing an email discussing the claimant's sick leave with other colleagues;*

*6.2.13 Fail to properly resolve the claimant's second grievance brought in June 2023;*

*6.2.14 Fail to properly resolve the claimant's third grievance brought in July 2023.*

179. We have first asked ourselves whether any detriment was in fact suffered by the Claimant.

180. We remind ourselves of the findings of fact that we have made, as set out above.

181. As set out above, we have found that the Respondent did not:

- (a) Pick on and scapegoat the Claimant at meetings. This disposes of complaint 6.2.4.
- (b) Task her with items that were outside of her role and with unrealistic deadlines. This disposes of complaint 6.2.5.
- (c) Fail to invite the Claimant to meetings. This disposes of complaint 6.2.7.
- (d) Fail to offer her bespoke thanks, which in any case was a wholly unrealistic for the Claimant to expect. This disposes of complaint 6.2.9.
- (e) Humiliate the Claimant at a training session. This disposes of complaint 6.2.10.
- (f) Pressure the Claimant to resolve her second grievance informally. This disposes of complaint 6.2.11.
- (g) Inappropriately discuss the Claimant's sick leave. This disposes of complaint 6.2.12.
- (h) Fail to resolve the second and third grievances. This disposes of complaints 6.2.13 and 6.2.14.

182. We accept that imposing a PIP (complaint 6.2.8) might be seen as a detriment.

183. But it is clear to us that this has nothing to do with the protected disclosures, which took place some time afterwards. Any detriment caused by the PIP could not be attributed to any qualifying act.

184. For these reasons, the claims of victimisation must fail.

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Employment Judge Atkins  
Date: 10 September 2025

Note

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

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