



EMPLOYMENT TRIBUNALS

Claimant

Ms M. Mugani

Respondent

v Cambridge University Hospitals NHS
Foundation Trust

Heard at: Bury St Edmunds

On: 21 – 23 October 2025

Before: Employment Judge M. Hunt

Members: Mrs A. Buck and Mrs S. Laurence-Doig

Appearances

For the Claimant: Mr S. Budu

For the Respondent: Mr M. Islam-Choudhury

JUDGMENT having been sent to the parties on 11 November 2025 and written reasons having been requested in accordance with Rule 60(4) of the Employment Tribunal Rules of Procedure 2024, the following reasons are provided:

REASONS

Background

1. The Claimant had been employed by the Respondent since 6 September 2010 at Addenbrooke's Hospital. She began her employment as a "band 5" nurse and was promoted to "band 6" junior sister in April 2022, working in the acute medicine service on the "Emergency Assessment Unit 5" ward, which is abbreviated to EAU5. The Claimant remains employed by the Respondent, as I understand it, in the same "band 6" role.
2. The Claimant presented her claim form on 15 May 2024, after a period of ACAS early conciliation between 11 April and 7 May 2024. The Claimant complained of race discrimination.
3. Her specific complaints were clarified at a preliminary hearing on 20 February 2025, they are of direct discrimination in relation to the funding and pursuit of a master's degree in advanced clinical practice. A draft list of issues was agreed at that hearing. In her closing submissions submitted to the Tribunal, the Claimant mentioned allegations of possible race

discrimination in the Respondent's application processes but that is not part of the claims before the Tribunal. The Tribunal will not consider those allegations any further.

Evidence

4. In determining these claims, the Tribunal considered a 357-page file of documents. It has also considered written witness statements from the Claimant and the seven witnesses called by the Respondent.
5. Oral evidence was heard from all apart from two of those witnesses. The first one who the Tribunal did not hear from orally had provided a statement in relation to an issue concerning the loss of certain emails from the Respondent's systems. That matter was unfortunate but there was little that could be done about it and the Tribunal accepted that evidence.
6. The second witness who did not attend the hearing was the matron responsible for overseeing the EAU5 ward (the "Matron"). The Matron was unable to attend the Hearing and that is also unfortunate. The Respondent accepted that that may have an impact on the weight that the Tribunal would place on the content of her written statement. However, the Tribunal was satisfied from the documents that it saw, that the Matron's role in the events was sufficiently clear and consistent with the account that she gave in her statement and, overall, there was no reason to doubt what she had written.
7. Overall, the Tribunal was grateful to all of the witnesses for the assistance that they provided. The Tribunal was also grateful both to the Claimant's and to the Respondent's representatives for their assistance and helpful submissions during the course of the hearing.
8. The Tribunal accepted that each witness gave a frank and honest account of their recollections and, in reality, few facts were genuinely in dispute between the parties save principally as to the motivations behind any given decision.
9. Save for the Claimant and the principal decision maker at the Respondent, Mr Cleave, I will refer to witnesses primarily by their job title rather than their name. In this respect, I will outline the organisational structure at EAU5 ward (so far as the Tribunal understood it). "Band 5" is the entry level for nurses on EAU5 ward. "Band 6" nurses on EAU5 ward are referred to as "junior sisters". They report to the "band 7" "senior sister" or "ward manager"; the latter is the term the Tribunal will use in this decision. The ward manager at any given time was the Claimant's line manager. There was a succession of different EAU5 ward managers during the period relevant to this claim. The ward manager reports to the Matron, who oversees several wards at Addenbrooke's Hospital.
10. It is worth highlighting that, in giving evidence, the Claimant confirmed to the Tribunal that she did not believe that certain of the witnesses who are her colleagues named in the list of issues had in fact discriminated against her. The Tribunal felt it important to record that in this decision as the individuals

may well still be working closely together or may do so again in the future and it may reassure them to note the Claimant's view that they did not discriminate against her. However, I also note that it is part of the Claimant's case that she does not know entirely whether any individuals at the Respondent discriminated against her at any point. It is also therefore worth recording that the Tribunal has nevertheless considered that matter on the evidence available to it and has, in fact, reached the same conclusion that the Claimant herself has reached which is that neither her current or previous ward manager discriminated against her on the grounds of her race (certainly not in relation to the matters before this Tribunal in any event).

Findings of Fact

11. The Tribunal notes that there is little real dispute between the parties, most of the facts are agreed, save as to individual states of mind at specific times.
12. It is important to stress that the Tribunal was not undertaking an investigation into the general fairness of the Respondent's policies, or their application in this particular case. Nor is the Tribunal undertaking an audit of the Respondent's management or training provision. At times a degree of analysis could not always be avoided, however, as the Tribunal's primary task was to investigate the reasoning behind relevant decisions taken at different points. Precisely because the Tribunal's role is not to undertake an audit, it is possible that the summary given below is not entirely accurate. The Tribunal is nevertheless satisfied that it is a sufficient summary and sufficiently accurate for the purposes of these proceedings.
13. The Tribunal's focus at all times has been on whether the Respondent discriminated against the Claimant on the grounds of her race.
14. When findings have had to be made, the Tribunal have made them on the balance of probabilities in light of all of the evidence. In this case the Tribunal concluded that the best available evidence was presented by the documents that it was provided with, notably email correspondence that largely supported every witness' recollection of events.
15. To break the facts down into different sections is likely to be helpful in this case. The Tribunal will deal firstly with general facts around the Respondent and its relationship with Anglia Ruskin University.

The Respondent

16. The Respondent is an NHS Foundation Trust that operates Addenbrooke's Hospital, a large University Hospital providing a wide range of health services. It employs approximately 11,000 staff.
17. The Respondent worked in collaboration with Anglia Ruskin University in relation to certain professional courses, especially those that combine academic teaching with practical training. Of particular relevance to these proceedings, is a course that the University provides in non-medical

prescribing. This refers to the prescription of medication by nurses rather than by doctors, which has traditionally been the case.

Master's Degree in Advanced Clinical Practice

18. The non-medical prescribing course can be undertaken as a standalone course. It is also a compulsory "module" that must be completed in order to obtain the University's master's degree in advanced clinical practice (which I will now refer to as the "Master's Degree"). A requirement of the non-medical prescribing module is that students are practising in roles where they are frequently involved in the prescription of medication. This is so as to enable them to better understand the practice of what they are learning academically at the University.
19. This requirement was confirmed by Anglia Ruskin University to the Claimant directly in an email of 17 January 2024, which was included at page 250 of the file. It states as follows:

"Unfortunately as you were not working in a role that enables you to prescribe, you don't meet the entry requirements to undertake the prescribing modules starting next week, as per the NMC [Nursing and Midwifery Council] Standards. As a result, that means you cannot continue with the full MSC Advanced Practice course."
20. That information was subsequently repeated by letter dated 30 January 2024, which was included at pages 281 – 284 of the file.
21. A process exists to check that the requirement is met in advance of the module starting. That process is the filling out of a form, which is referred to as a V300 Form. It is a short form explaining the requirement. It needs a student's line manager to confirm that the student's current job role satisfies the requirement.
22. The Tribunal found there was no reason to doubt what Anglian Ruskin University itself said about the nature of its non-medical prescribing course and its prerequisites. The Matron referred to the V300 Form that she had been asked to sign in early 2024, in relation to this specific course, and it confirms the information that the University has given. An excerpt of the form was included in an email at page 230 of the file, that reads as follows:
 - "You independently assess and diagnose in your current role, you should have completed a credited Level 6 or 7 Clinical Assessment Skills module;
 - You must be currently working in an appropriate role within the field in which you are going to prescribe for at least one year."
23. At page 296 of the file, the Respondent records its belief that there has been no change to the course requirements during any of the relevant periods that the Tribunal was investigating.

24. Accordingly, the Tribunal accepted that this has always been a requirement before undertaking this specific module. It also accepts that this may well have not been especially clear to the Claimant at any stage or, indeed, to many other people who may not have a relatively in-depth knowledge of the course. For instance, what is meant by an “appropriate role” would not be obvious to everyone without a frame of reference, and it certainly was not obvious initially to the Tribunal.
25. It is therefore worth explaining what an “appropriate role” means in this particular case. The most obvious example that was discussed at the hearing was a specific role as “Trainee Advanced Clinical Practitioner”. The Tribunal was referred to a specific job description for that role, at page 150 of the file.
26. The job description records as follows:

“The role will encompass the skills of assessment, examination, diagnosis and treatment within an agreed scope of practice under supervision by a medical practitioner or qualified ACP [Advanced Clinical Practitioner]. They will be supported to gain the necessary experience in line with the four pillars of Advanced Practice.”
27. The job is a “band 7” role and was described at the hearing as essentially a sort of apprenticeship. It is an expectation of the role that trainees undertake the Master’s Degree. The traineeship is expected to last around three years with the non-medical prescribing module being taken typically during the second year of that training. Upon completion of the Master’s Degree and demonstrating the requisite competencies, the trainee is expected to move into a role as “Advanced Clinical Practitioner”, which is a “band 8A” role. The role as a Trainee Advanced Clinical Practitioner will not involve prescribing in itself but being part of a team making prescribing decisions. In this way, the trainee will gain experience of, and exposure to, such decisions and the circumstances in which certain medication may be prescribed.
28. It is not exclusively Trainee Advanced Clinical Practitioners that may prescribe medication, other roles also may involve an element of prescribing. At the hearing these roles were described as “specialist” nursing roles in specific practice areas where prescription plays a big part of an individual's role. The particular specialist roles referred to at the hearing were, for instance, in cardiology, rapid response and dermatology.
29. In relation to supervision, the Claimant says that she had arranged for a consultant doctor to provide it. The Respondent said that that was not possible within its operational structure; the Claimant had to be in a suitable job role with specific exposure to prescribing in order to be able to participate in the course. The Tribunal was distinctly unsure whether an “informal” supervision arrangement agreed without the ward manager or Matron’s knowledge would indeed be possible. The Respondent’s view was compelling and it was difficult to see how the Claimant could determine her own supervision, or how she could be effectively supervised to perform

tasks outside the scope of her formal job role. Ultimately, the Tribunal found it did not need to determine what actually was possible as it was not relevant to the issues. The supervision requirements are principally for the Respondent and the University to decide, bearing in mind all guidance provided by, in this case, the NMC.

30. That details the relationship between the Respondent and Anglia Ruskin University. It is also necessary for the Tribunal to review some of the aspects of the Respondent's policy around funding of the Master's Degree.

Respondent's Policies – Training and Master's Degree Applications

31. A flow chart was provided to the Tribunal at page 136 of the file. Essentially, the process is to discuss an application with your line manager to obtain their approval; the approval of the Divisional Head of Nursing is then required. After that, the application goes before a funding panel who make a decision on the application.
32. It has always been a requirement, as the Tribunal has highlighted above, for applicants to be in a role with exposure to and / or involvement in the prescription of medication to complete the non-medical prescribing module and therefore the Master's Degree.
33. The application process was subject to a more formal governance arrangement from October 2023 onwards. A role that was referred to as Professional Lead of Advanced Practice (the "ACP Professional Lead") was created that month and the Respondent's policies changed somewhat in order to provide for a better and more robust oversight of advanced clinical practice training in the Respondent's organisation. This process was encapsulated by the ACP Professional Lead in an email drafted during the course of dealing with a complaint raised by the Claimant, included at page 296 of the file. It says as follows:

"When an individual applies for any AP / NMP [advanced practice / non-medical prescribing] course, they are required to fill in an application form that outlines the entry criteria and the line manager signs to say they agree they meet these requirements. David Cleave first signed [the Claimant's] application to support her to undertake the [Masters Degree], which included the module of NMP. The individual then applies for funding and if the funding is available then it is approved. The criteria has not changed but as AP courses are becoming more popular and national guidelines are being released, the HEI's and funding team have become more robust with their checking that individuals are suitable even though their line manager has reported they meet all criteria.

All applications for standalone NMP modules require a CUH additional check list and all applications for the advanced assessment module are sense checked by myself. The funding team (FLAGG) work on the criteria:" [the email goes on to list that the NMP request fits within the applicant's

current job role and NMP is part of their job description and scope of practice].

34. The Tribunal found that the ACP Professional Lead recognised possible past failures in relation to oversight of the training process. The Tribunal was informed at the hearing, and accepted, that the application process was now more strictly controlled. Additionally, the Respondent's policy is now very clear that, in order to undertake the Master's Degree, applicants must be in a Trainee Advanced Clinical Practitioner role at the time of application. Other nurses may still be able to do the non-medical prescribing module where applicable but that would be on a modular basis and not as part of the Master's Degree.
35. The evidence before the Tribunal seemed in large part to be predicated on the assumption that the Respondent previously operated a more flexible policy than that which was introduced from October 2023 onwards. However, there was no good evidence before the Tribunal that that was actually the case and that individuals who did not satisfy the course requirements had previously been permitted to undertake the Master's Degree (other than the Claimant). That is not to say that it had not happened, there was simply no evidence before the Tribunal about that. If it had happened, it was unclear how the appropriate practical experience and supervision would have been made available to those students with limited exposure to the prescription of medication (such as the Claimant).
36. In paragraph 13 of the ACP Professional Lead's witness statement, she said:

“Prior to my involvement in the advanced practice programme, the Trust occasionally placed individuals onto the MSC in Advanced Practice, even when they were not in an appropriate advanced practice post. I understand that the intention was to support individuals in securing a trainee ACP position which was the situation with the Claimant. However, the Trust has since adopted the approach that individuals should already be in a trainee Advanced Practice post before starting the course to avoid the need to remove them later due to ineligibility to the NMP module.”
37. The Tribunal was unconvinced that there ever in fact had been such a “practice”, as opposed to the Claimant's unfortunate case being an isolated occasion. It would mean that, in a situation where there was no guarantee of appointment to a Trainee Advanced Clinical Practitioner position, funding would be provided for a Master's Degree despite there being no guarantee it could be completed. Furthermore, the student would have a relatively short timescale within which to successfully obtain such a trainee post, which the Tribunal was informed was an extremely competitive process. In this case, the Claimant would have had to obtain such a post within less than a year. It may be that this was, in truth, a one-off situation that had arisen and that the ACP Professional Lead's reference was purely to what had happened on this particular occasion. The Tribunal considered that it

was not the sort of practice that would typically be formalised by a public sector organisation and, if so, how it could be pursued fairly.

38. Ultimately, the Tribunal did not need to make a finding one way or another as to whether it was a genuinely established practice. This is because, ultimately, the Claimant was authorised to commence the Master's Degree and was provided with funding to do so, whether pursuant to such a practice or entirely exceptionally. Clearly, there was no detriment or race discrimination involved in that particular aspect of the background to this case.

The Claimant's Work and Training

39. The EAU5 ward is part of Division C of the Respondent's operations. The Claimant's role did not, and still does not, involve prescribing medication.
40. In August 2021, a new Head of Nursing was appointed to oversee Division C – Mr Cleave. At around the same time a new ward manager was appointed to manage EAU5 ward.
41. At that time, the Claimant was a Band 5 Nurse. She was considering professional development and career progression. She settled on pursuing the Master's Degree. The Claimant discussed that with her ward manager on 18 October 2021. The ward manager was supportive of the Claimant's intentions and offered some guidance to the Claimant about the process of investigating training courses and applying for funding.
42. Having already identified that she wanted to pursue the Master's Degree, the Claimant applied for funding from the Funded Learning Authorisation Group ("FLAG") that same month. The ward manager, as the Claimant's line manager, supported the application.
43. At the hearing, the ward manager confirmed that she was not fully familiar with the Master's Degree that the Claimant was hoping to pursue. She did not seem to know that it included the compulsory non-medical prescribing module. At the least, she did not know that a pre-requisite to undertaking that module was for the Claimant to be working in a prescribing role. The Tribunal accepted that evidence.
44. The application was referred to the Matron initially, who supported it and asked the ward manager to send it to Mr Cleave.
45. The referral to the Matron was included at page 175 of the file and the Matron's actual response was short:
- "Looks really good to me and she has clearly thought about the course and the benefits to both her and the Trust. I am happy to support it."
46. The Matron raises no query about the Master's Degree itself, its contents or any eligibility requirements.

47. There is some dispute about what then happened. What is clear is that, because of a conversation with Mr Cleave on the EAU5 ward in mid- to late-November 2021, the Claimant believed that her application had been refused by Mr Cleave. The best written, contemporaneous record of what happened during that conversation was provided in an email exchange between the ward manager and Mr Cleave. Those emails were provided at page 177 and 179 – 180 of the file.
48. Mr Cleave had either understood the Claimant to be inexperienced and had refused the application on that basis or had been mistaken when he told her that her application had been refused because he thought she was somebody else who was newly-qualified, whose application he had refused on a similar basis. If he was not mistaken about the Claimant's identity, he may have believed she was inexperienced because the Claimant was a band 5 nurse who had completed her bachelor's degree only two years prior in 2019.
49. The Tribunal did not need to make findings of fact as to what exactly Mr Cleave believed or what exactly was said in his conversation with the Claimant for a relatively simple reason. Whether Mr Cleave believed the Claimant was insufficiently experienced, such that he would not support her application, or mistook her for a newly-qualified colleague, then his decision to refuse the application was not based on the Claimant's race. If it was the latter and he had mistaken the Claimant's application as another's, then it was simply a case of him having failed to progress the Claimant's application.
50. If the Tribunal had to make a finding on the point, it would have decided that it was more likely that Mr Cleave was not mistaken as to the Claimant's identity and had rejected her application on the basis of a perceived lack of experience. The Tribunal had not been given any information about anyone who was newly-qualified and who might have applied, and, if so, why the ward manager would have approved such an application. Whatever the true position, whether either would amount to discrimination will be addressed in the Tribunal's conclusions.
51. Regardless of what Mr Cleave thought, everybody accepts that the Claimant was upset by the matter and she raised it with her ward manager, who raised it with the Matron.
52. The ward manager was clearly supportive of the Claimant. In her email to the Matron (page 177 of the file), she wrote as follows:

"I am very upset about something that has come to my attention this evening. ..."
53. She then refers to the conversation she had and at the end of the email she wrote:

"I am really upset that the relationship that I am working very hard to build with the team here can be jeopardised with such unclear communication."

54. The Matron responded to that as follows:

"This is the first I have heard of it and I can't believe it!!!! No wonder she is so upset, I will speak to him tomorrow when I have calmed down. I have no idea where he got the idea that she was newly qualified from. Like you I totally support her application and have not had any conversations with him about it."

55. The next day, the Matron raised the issue with Mr Cleave by email (page 179 of the file). The email included the following:

"[The Claimant] is a very experienced and competent nurse with huge potential. She is very keen to do her Masters to help progress her career and is more than capable of completing it, and the skills she will obtain will be of huge benefit to EAU5. She has also recently applied for the Band 6 on EAU5, unfortunately she wasn't successful".

56. Mr Cleave responded to that email by saying,

"Clearly I don't want to upset anyone and everything about the tone and the brief conversation was friendly. I can only think that the messages got mixed but the fact that I have indeed upset her is terrible and I will try to catch up with her to hopefully clear up the misunderstanding."

57. Later on that same day, Mr Cleave gives the conditions that he would place on any approval of funding to attend a masters course. They were as follows:

"I am happy to approve masters with the following caveats:

1. The ward can support the required study release without significant increasing bank use...
2. It is part of an agreed development plan, ideally evidenced at appraisal
3. Other eligible staff have had the opportunity to apply (i.e. the process is fair and was open to all)
4. There is funding available

If 1-4 are met then I will always approve. As with lots of these sorts of things, you will know better than me whether the individual is ready, and whether this is a good investment. My role is just to make sure we are following a fair process across the Division. If you come to me with 1-4 being "yes" then I will not stand in the way.

I can't remember seeing any other applications - if there is another case that needs my approval, please can you re-send?"

58. The second part of that email refers to an application made by somebody different, which it appears that Mr Cleave had misplaced or had not seen.
59. Mr Cleave said in his witness statement that he discussed the matter at the time (i.e. in November/December 2021) with a nurse who was later to become ward manager. That nurse did not become ward manager until mid-2022.
60. The Tribunal concluded that Mr Cleave must have been mistaken about this point. If he had held any discussions with anybody in late 2021, it would no doubt have been with the ward manager at the time, a matter to which I will return.
61. Both the Claimant's and the other application were forwarded on to Mr Cleave. The Tribunal found that Mr Cleave was not entirely familiar with the application process. There is an email from him from this time (page 194 of the file) that says as follows:

"with these applications – I am happy in principle that they are courses I would support– do you know how the funding works as it is not clear.

Basically – is there a central pot that they are applying against? - ie if there is not funding available then they will not be offered the course Or is my signature a commitment to fund from divisional budgets?"

62. Despite receiving the applications on 1 December 2021, Mr Cleave does not appear to have acted on them. Accordingly, the Matron forwarded the applications to the FLAG on 10 December 2021. She refers to her having been under the impression that they had been sent by the "DHON" (meaning "Divisional Head of Nursing" – Mr Cleave).
63. The Claimant's application omitted some details. For instance, the course name. The application was amended and re-submitted by the Claimant's ward manager on 14 December 2021, which now included a name for the course in a box on the form that said "cost of program/course", although it simply recorded "Clinical Advance Practitioner".
64. The Matron and the ward manager were informed the next day that the application would be considered at the next FLAG panel meeting, which was scheduled for 4 February 2022.
65. Following that meeting, a FLAG panel member approached the ward manager to ask her to discuss the application with the Claimant. The ward manager recorded her recollection of events in paragraph 8 of her witness statement, which is as follows:

"My recollection is that it was a general discussion about different options of MSC pathways and if others, such as a Clinical Nursing MSC

pathway would be of interest to the applicants whilst aligning more with the scope of the applicants current job roles within the clinical area.”

66. Later on she said she suggested,

“I talked with those who had applied to see if they had considered this option.”

67. The reason for that discussion was made clearer in an email from the ward manager to the Claimant of 22 February 2022 (page 331 of the file). That email was as follows:

“If you would like to apply for the Advanced Clinical Practice course then [the FLAG panel member] has asked that you amend your application statement to be more specific to this course. As you will need a medical supervisor for this course, we will need to see if any of the Consultants have the capacity to support you.”

68. The ward manager then discussed the matter with the Claimant, who confirmed that the Master’s Degree was her preference. The ward manager suggested that the Claimant liaise with the FLAG panel member directly. Accordingly she approached her by email on 4 March 2022 and received a response on 24 March 2022.

69. The Claimant requested a meeting with her on the next day but received no reply to that email. In mid-April the Claimant attempted to chase for a response but appears to have addressed the email to herself, rather than to the FLAG panel member. She chased again in late May via a separate colleague who knew about the matter. That email was included at page 199 of the file. It was as follows:

“[The Claimant] is following up the below with you [the FLAG panel member]. These were the two ACP applications from EAU5, you were discussing alternative pathways for. Please can you make contact ASAP.”

70. At the hearing the reference to “alternative pathways” was described as essentially meaning alternative master’s degrees, notably a master’s degree in clinical nursing.

71. The FLAG panel member swiftly responded to that email (page 199), noting what her main concern was, which was as follows:

“The main concern for me was the doctor mentor side for the prescribing etc but as this is something you have now found and there is the commitment there and your ward manager is supporting you for study leave then I am happy you have the support to undertake the course.”

72. The application for funding was therefore approved in late May 2022.

73. At around this time the Claimant's ward manager changed and the application was resent to the FLAG on 7 June 2022 as it needed to be updated. Both the name of the course applied for was still unclear – "*Also which pathway name was you applying for as it only states level 7? Clinical nursing or ACP?*" – and it needed the ward manager's approval. A degree-specific attachment was also required and had not been provided, which suggested that only a single module had been applied for. The email chain was included at page 203 of the file.
74. A further exchange from July 2022 was included in the file (page 334) from the FLAG, which was as follows:
- "We just require the name of the pathway as it is not on the form in the required section. I know you had discussions around this. Is it clinical skills or ANP?"
75. The Claimant responded:
- "The name of the course is masters in Advanced Clinical Practice. It can be called ANP but to my knowledge, ANP is a name that we use in practice for Advanced Nursing Practitioner".
76. There was some delay in the new ward manager approving the amended application. He was chased up on 4 October 2022. He sought to check the situation with his predecessor as follows (page 202 of the file):
- "May I ask if you have agreed for [the Claimant] to attend uni course? She told me you have discussed with [the Matron] and approved but not had a chance to sign the FLAG application... If all agreed, I will sign and submit. Please, let me know."
77. The response was positive and so the ward manager approved the application.
78. On 17 October 2023, the FLAG chased for the further course information that it had already sought, as I have referred to previously (page 343 of the file). It was clear that at this point the FLAG believed that the Claimant was applying for a single module. The email was as follows:
- "So we are confirming that you are applying for 1 module - the Advanced clinical skills module only at ARU - £1,583?"
79. The Claimant's response to that was:
- "Thank you for approving the funding. I am a bit unsure why I have been given funding for one module and not the entire course. Please enlighten me on this."
80. The FLAG responded:

"I previously requested that if you required the pathway, that the pathway form is required - this asks for more details about the modules and costs etc - please see attached email.

The form your manager sent was for a module and it did not state all the information for a pathway therefore we have presumed it is only one module.

If you would like a pathway please complete/send in [a separate form]".

81. The new ward manager provided (at page 345 of the file) an amended FLAG application form. It was still not on the correct pathway form but it did have the information effectively required, so it was accepted subject to Mr Cleave's approval. He gave that on 26 October 2022. It was around this time that the Tribunal found that Mr Cleave had discussed the application with the ward manager (as explained above, he had not been ward manager the previous year).
82. Mr Cleave said that, at that point, he was told that the Claimant would be seeking to become a Trainee Advanced Clinical Practitioner and he was aware of further opportunities that were soon going to be published. On that basis he says that he allowed the application and provided his support for that. The Tribunal was unconvinced by this explanation, but it did not matter for the purposes of this claim whether it was true or whether Mr Cleave had simply failed to properly engage with the Master's Degree course requirements.
83. The application for funding was approved on 26 October 2022. On 12 November the Claimant applied to the University and part of the application process involved a tripartite interview with the course leader, the ward manager and the Claimant. That meeting took place on 29 November 2022.
84. The Tribunal had no record of what happened and what was discussed at that interview, save for the Claimant's own recollection which was given in her witness statement. The Claimant said that during the interview the ward manager confirmed that she was in a suitable role to undertake the course and would be offered an Advanced Clinical Practitioner role upon its completion. Those statements and that approval would correspond to the usual University process as was outlined in the letter sent by the University that I have referred to at pages 280 – 284 of the file, specifically page 282 that records as follows:

"I understand that ARU were told by [the Claimant] and her line manager during the admissions process that [the Claimant] was in a role which was eligible to study this course. Information about this requirement is available on our website. We also interview all applicants for the MSc Advanced Practice (Clinical) prior to commencing the course, jointly with their line manager. Interviewees are asked to confirm that they are eligible to undertake the course as a trainee

advanced practitioner. The student was interviewed on 29 November 2022.”

85. The Claimant completed the first year of her course but in December 2023 a major issue arose, which is the issue that directly led to these proceedings. The Claimant was asked to complete a V300 Form. It required, as explained previously, that the person signing that form confirm that the Claimant was currently working in a role involving the prescription of medication. I have already referred to the excerpt of the form that was provided at page 230 of the file.
86. Yet another ward manager had by now been appointed. She had been asked to complete the V300 form. She referred the matter to the Matron. The Matron reviewed the form and was concerned about signing it because she realised that she would be making an inaccurate declaration. As explained above, by this point, the new ACP Professional Lead position had been created; the Matron brought the matter up with her. The Claimant was copied into various emails around this time.
87. The Respondent’s overall position and view, as it became clarified over time, was that the Claimant was not in a role that made her eligible to undertake the compulsory non-medical prescribing module of the Master’s Degree. The Matron summarised the matter in her email of 4 January 2024, that I have already referred to above (page 230 of the file), as follows:

“Appreciate this is a difficult situation as [the Claimant] has completed the first module in the ACP Masters, this was approved by David last year, however she is not in a trainee ACP post, and is a Band 6 Deputy Sister on EAU5.

Whilst we want to support her development the non-medical prescribing module is a concern as she does not meet the highlighted criteria for the module in her current role, there are also concerns that if she does complete the module and is not in a trainee ACP post, she will not be able to prescribe in her current role as she will be acting outside her current scope of practice”.

88. She then provides the excerpt of the V300 Form and writes:

“What are your thoughts on this as I do not feel able to approve it based on the above?”

89. The matter was explained to the Claimant the next day in an email included at page 228 of the file. The ACP Professional Lead also discussed the matter with the Claimant and summarised the position in an email as follows:

“As I have said, going forward the Trust policy is that full MSc’s in advanced practice will not be funded unless the individual is in a trainee ACP post.

However, I think the case with [the Claimant] is difficult as following the current trust line [the Claimant] would not have been able to undertake her entire MSc in advanced practice as she is in a band 6 role as a ward sister and does not need or practice advanced skills in her scope. However, her undertaking this was agreed and signed off prior to the introduction of these rules.

Therefore I think it would be extremely difficult to now stop her MSc halfway through or expect her to change now. This is an extremely difficult situation and on further consideration we need to consider the fairness to [the Claimant]. However, I do appreciate that there has been some mixed views and initially I felt she could change the course. But having spoken to her she feels extremely upset and feels she is being singled out after the rule change.

I have highlighted to her clearly that she will NOT be able to prescribe medication after qualification in her current role as a band 6. If she is successful in getting a trainee ACP post in the future she will need to ensure her prescribing skills are updated with current guidelines.”

90. As explained above, the Tribunal was far from convinced that, although this was the ACP Professional Lead’s stated view at the time, it was in fact an accurate explanation of the Respondent’s policies. It rather appeared that there had in fact been no change in policy or practice as such, in the sense that the requirement to complete the non-medical prescribing module of the Master’s Degree had been applicable at all relevant times. Nobody whose role did not involve prescribing would have been able to undertake that module. So quite on what basis any policy would have formalised that non-prescribing nurses could be funded to undertake the Master’s Degree regardless was decidedly unclear. It may be the case that some colleagues who were not Trainee Advanced Clinical Practitioners, but who prescribed medication, previously could successfully apply to undertake the Master’s Degree and could no longer, but that would be irrelevant to the Claimant’s situation.
91. Whatever the true position, in response Mr Cleave gave two options (page 227 of the file). He wrote as follows:

“The two leading options in my eyes would be to a) support her into a “proper” tACP post as a preferential applicant – this would be my preferred if it turns out that [the Claimant] was acting in good faith but was somehow misled – and is the only way I think she could be supported to do NMP; and b) negotiate with ARU and transfer her on to a different course that does not require NMP.”
92. The Matron responds to that to say that there are no Trainee Advanced Clinical Practitioner posts currently available and that there were unlikely to be any more “in the pipeline”.

93. Mr Cleave (at page 225 of the file) gives what amounts to his decision on the matter as follows:

“This is a difficult situation, in that we have supported an individual to undertake an advanced practice course, but to date they have not been able to successfully apply for a role in which these skills can be utilised; particularly the NMP. I do not recall my own conversation with [the Claimant] but I am confident that it would have included her needing to get a place on a tACP program. Having discussed the case, I agree that it would be unfair and unwise to commence the NMP component of this course in the knowledge that there would be no opportunity to prescribe from within her current role. This would open the very real possibility of facing appraisal as a prescriber (who is not prescribing) and therefore being unable to maintain registration

I suggest we pause or defer starting on her course until she is able to secure a place on a tACP pathway or equivalent where these skills will be utilised.”

94. The ACP Professional Lead approves that decision and says as follows:

“That must have been a very difficult decision for you to make but agree with you entirely. When a tACP post comes out again I would be very happy to help her fine tune her application and give her support in what will be expected at interview.”

The Claims and Issues

95. The claim was an allegation of direct discrimination on the grounds of the Claimant’s race, focused around the following issues:
- 95.1. an alleged delay in the initial approval of her application for funding for, and to attend, the Master’s Degree;
 - 95.2. being dissuaded from undertaking the Master’s Degree and encouraged to consider an alternative course, notably a master’s degree in clinical nursing; and
 - 95.3. an internal failure to provide support to the Claimant during this period to allow her to complete the Master’s Degree.

Relevant Law

96. The law that the Tribunal needs to apply is the Equality Act 2010. Notably s.39(2) of that Act,

An employer (A) must not discriminate against an employee of A’s (B),

- (b) in the way A affords B access or by not affording B access to opportunities for promotion, transfer or training or for receiving any other benefit, facility or service, and
 - (d) by subjecting B to any other detriment.
- 97. The focus of the submission before the Tribunal was subsection (d) (detriment) but it appears to the Tribunal that subsection (b) applies just as much, although ultimately it is of no consequence.
- 98. Section 13 of the Equality Act 2010 is as follows:

A person (A) discriminates against another (B) if because of a protected characteristic A treats B less favourably than it treats or would treat others.
- 99. Section 109 of the Equality Act 2010 provides,

An employer is vicariously responsible for the acts of its employees.
- 100. Section 136 of the Equality Act 2010 is what is referred to as the burden of proof provisions which provide,
 - (2) This section applies to any proceedings relating to a contravention of this act if there are facts from which the Court could decide in the absence of any other explanation that a person A contravened the provision concerned, the Court must hold that the contravention occurred.
 - (3) Subsection (2) does not apply if A shows that A did not contravene the provision.

Conclusions

- 101. As to the Tribunal's conclusions, firstly, it is important to note the nature of the Tribunal's jurisdiction. The Tribunal is determining whether the Claimant was subjected to race discrimination contrary to the provisions of the Equality Act 2010. There was much reference at the hearing and in the documents generally to fairness, to the Respondent's general management practices and competence, possibly even to contractual agreements in respect of the training course that the Claimant attended.
- 102. Although it is relevant to consider those matters to an extent as they might explain the thought processes behind the decisions made in this case, they are not directly the object of the Tribunal's decision. Unavoidably the Tribunal made some conclusions in relation to some of those matters; they are not binding conclusions in relation to any other proceedings or investigations that may take place.
- 103. It is important also to stress that all parties that were at the hearing largely agreed that the Claimant found herself in a very unfortunate position. Her

participation in the Master's Degree, which was a very exciting opportunity for her, was one that she believed would lead to a very significant promotion at its conclusion. No doubt the Claimant put in a lot of hard work to complete the first year of the course. To then be refused the opportunity to pursue the remainder at the very last minute before it was due to continue must have been a terrible blow. Indeed, the Respondent recognised as much in the emails that the Tribunal has referred to, specifically in pages 225 – 228 of the file.

104. None of the Tribunal's findings detract from that context; clearly the Claimant has a sense of grievance that is understandable.
105. The facts that the Tribunal has found are recorded above. It is convenient to summarise relevant aspects when explaining the Tribunal's conclusions on whether discrimination occurred at any stage. Of course, in doing so, the Tribunal has borne in mind the burden of proof provisions that I have cited above.
106. At the outset, the Claimant applied for funding for the Master's Degree. Her application form was incomplete. It was then for her ward manager to approve the application. She did so without knowing the course requirements, or indeed its real nature, or requesting any further detail to be entered in the application form. She wanted to be supportive of the Claimant so saw no reason not to give her approval.
107. The Matron supported that application as well and her view was summarised in three lines of an email. She clearly had relatively little engagement with the application generally. The emails and discussions that the ward manager and Matron had demonstrate that they both wished the best for the Claimant and to help her further her ambitions. There was no trace of discrimination in their actions. They simply expected the Claimant to have done her own research into the Master's Degree and its requirements. That the Claimant had not properly understood the course requirements, nor had her managers, is decidedly unfortunate, but amounts to no more than that – an unfortunate management failure.
108. Mr Cleave, the Divisional Head of Nursing, was new in the role and he was relatively unfamiliar with the application process. He decided either that the Claimant was insufficiently experienced to undertake the Master's Degree and rejected the application, or misplaced her application, believing it to be the same as a colleague of hers.
109. If it were the former, the Tribunal notes that the Claimant was a Band 5 nurse applying for a course that would potentially lead to a very significant promotion to a Band 8 position. The Master's Degree was designed principally for those already in a Band 7 Trainee Advanced Clinical Practitioner role, or at least those nurses in specialised practice areas involving the prescription of medication. On this basis, Mr Cleave's view would have been perfectly reasonable and not obviously tainted by discrimination.

110. In the alternative, had Mr Cleave misplaced the application, the evidence showed it was not the only one. When the application came back to him a few weeks later, he approved it. There was no evidence that any minor oversight or delay at this stage was motivated by discrimination. If Mr Cleave had indeed simply misplaced the application, rather than refusing it, the Tribunal accepted that this would have been an innocent oversight.
111. The Tribunal concluded that at no point during Mr Cleave's involvement in the application process, whichever of the two alternatives was true, was the Claimant subjected to any discrimination on the grounds of her race. If he considered the Claimant to be too inexperienced, he clearly showed no reluctance to approve the application once he was assured she was in fact experienced and a suitable candidate for the Master's Degree. In truth, had he determined that the Claimant was too inexperienced for the Master's Degree (in the sense of not being in a suitable role to undertake it), it would have ultimately benefitted everyone had he continued to challenge the Claimant's application on that basis. He clearly informed the Matron that he felt she was better placed than he was to determine the Claimant's suitability. Unfortunately, she did not actually investigate the situation in greater depth, but maintained her "in principle" support of the Claimant and her application.
112. The sequence of events makes it very clear that one or all of the individuals who were involved in approving the Claimant's application were not fully engaging with the nature of the Master's Degree, the course requirements (which the Claimant did not fulfil), or the detail of the application (which was obviously incomplete). Had he found the Claimant too inexperienced, Mr Cleave would have come closest to performing his role in the application process. However, if that was so, he failed to properly investigate and therefore articulate exactly why he might have thought that – notably by specifying that the Claimant was presently ineligible for the Master's Degree as she did not prescribe medication. Instead, probably because he was new to his role, he appears to have let the Matron's support for the application and the nature of the Claimant's complaint about him, cloud what was otherwise a sound judgement that something about the application was amiss.
113. Ultimately, of most relevance to the claim, all relevant managers in fact gave their support to the Claimant's application, which demonstrates that they were not discriminating against her. All of them seemingly believed that somebody else may be checking whether the Claimant's role fulfilled the requirements of the Master's Degree. In fact, the Tribunal was satisfied not only that this approval did not amount to discrimination, but also that it could not amount to a detriment for the purposes of the Equality Act 2010. The only way it could have done, would have been if the Claimant's managers had intentionally sought to support the application in the full knowledge that the Claimant would be unable to pursue it to a conclusion, which would

plainly be extremely cruel. The evidence clearly demonstrated that was very far from any of her manager's intentions, and nothing at all would have supported such an allegation.

114. There were numerous occasions to prevent what ultimately happened but none of those opportunities were taken. It is not for this Tribunal to expressly criticise any particular individual although it has had to explain its conclusions so that may appear to be the case. The Tribunal simply notes that the Respondent is a very large organisation, it delivers critical services, all of the individuals concerned were no doubt in high pressure roles with relatively tight resources. This case clearly involved an element of inexperience at senior management level also, with Mr Cleave having only recently commenced his role.
115. It was clear to the Tribunal that if somebody had fully engaged with the Claimant's application at this early stage (as the ACP Professional Lead now does), the issue of her eligibility to undertake the Master's Degree would have been identified.
116. The application then came before the FLAG to consider. Apparently, the FLAG was uncertain about the nature of the course that the Claimant was actually applying for and whether it was simply a module, or the Master's Degree. That is ultimately a reflection of the less than rigorous application process that I have just described. The FLAG panel member who was responsible for reviewing the Claimant's application queried the choice of course in light of the Claimant's current role, which did not involve prescribing, and invited the Claimant's ward manager to undertake further discussion with the Claimant. It is exactly the sort of engagement that could and should have happened earlier. Unfortunately, that detailed engagement with the Claimant's application, once again, did not take place.
117. The FLAG panel member had been due to discuss directly with the Claimant, but apparently did not find the time. When she was chased, a decision was pressing and she found no good reason to object to the application. Again, it seems that the exact scope of the application and the course requirements were unclear to those charged with determining the application.
118. Quite why the application was approved prior to and apparently despite the application form being unclear and requiring further information, the Tribunal could not readily understand. In any event, steps in relation to the clarification of that application were undertaken subsequently. There was some delay in the Claimant's new ward manager approving the application. This constituted the largest delay in the whole application process, but the Claimant did not claim that her new ward manager had discriminated against her.
119. Even though he was not named in the claim, the Tribunal thought it would record that it found no evidence of any discrimination in any event during

that delay. The new ward manager approved the application relatively swiftly once he was chased in October.

120. The Tribunal notes that a large part of the Claimant's case refers to a lack of support during the application process. If by that she means that she was not given suitable and effective oversight and guidance, that is a justified view in the Tribunal's conclusions. However, that lack of support was not due to her race. It was principally due to a misunderstanding of the nature of her application, of each individual's role and responsibility within the progress of that application, and of management turnover (and failures). It seemed to the Tribunal that the Respondent's policies proceed on the expectation that all, or at least one of, the ward manager, Matron or Mr Cleave, should have a good degree of involvement in the application process. Any failures at that stage, should be identified by the FLAG. That did not happen. However, as the Claimant's application was approved, the Tribunal concluded that her treatment could not be considered unfavourable or a detriment; at that time it would better described as favourable treatment, in the sense that the Claimant was permitted to enrol on, and receive funding for, the Master's Degree. She was placed in a better position than many would have been, had the Respondent's policies been respected and the course requirements considered. Of course, with the benefit of hindsight, no one would think that having the application approved was in fact favourable treatment, but it should be so considered for the purposes of the Equality Act 2010.
121. Most importantly, the discrimination claim in relation to that application period cannot succeed because the Tribunal has found no evidence at all that any discrimination tainted any of the relevant decisions. In fact, all individuals were acting precisely with the genuine objective of supporting the Claimant, not treating her unfavourably.
122. The Tribunal noted with some reassurance that it was not the only body that had identified that there may be some failures in relation to the oversight of the Respondent's training processes. The Respondent itself appears to have done so, largely simultaneously to the events in dispute in this claim, by creating a new governance role – the ACP Professional Lead.
123. As to the events that took place at the end of 2023/early 2024, the Tribunal can state its conclusions fairly shortly.
124. The facts show that the Respondent realised at this point that the Claimant would be unable to complete the Master's Degree because she did not fulfil the eligibility requirements for the compulsory non-medical prescribing module. That is why the Respondent took the decision that the Claimant could not continue on the course. In truth, it was not the Respondent's "decision" in any event. It was a course requirement that the Claimant did not fulfil. The Respondent would have had no justification in completing the V300 form incorrectly.

125. The Tribunal simply needs to assess whether there was any discrimination in that process and the Tribunal is entirely satisfied that there was not. It was solely the Claimant's ineligibility to effectively undertake the module that resulted in her not being able to do so. It would have been in nobody's interests for the Claimant to have commenced the second year of her Master's Degree. Even had the V300 form been erroneously completed, it is decidedly unclear whether the Claimant could in fact have successfully completed the Master's Degree in any event. For instance, presumably the non-medical prescribing module tutor, once they became aware of the Claimant's actual role within the Respondent's organisation, would have queried her attendance and whether to certify her completion of the module.
126. Ultimately, the only "decision" that could form a basis to the discrimination claim at this stage was not to sign the V300 form. The Matron stated that she could not do so as it required her to declare that the information within it was accurate, notably as to the Claimant's role. The Claimant felt that she was in an appropriate role and considered herself to be a Trainee Advanced Clinical Practitioner as she was enrolled on the Master's Degree. On one view, that is perfectly reasonable, but it was inaccurate. The Claimant was by this point a band 6 nurse with no involvement in the prescription of medication, which is what that Matron had to declare.
127. The documents from around this time clearly show that the Claimant was not being singled out in relation to this matter. The V300 form was not signed because it would have been wrong to do that, not because of the Claimant's race. Once the Respondent established that it could not make the V300 declaration because it would be misleading to do so, the Claimant could not continue to pursue the Master's Degree.
128. The Claimant said she could still have pursued the Master's Degree under the supervision of a consultant, but that was neither the module requirement nor could it obviously would work in practice. There was no evidence before the Tribunal that any other people had benefited from any such bespoke arrangement, or that there was any element of discrimination involved in not signing the V300 form.
129. The Tribunal repeats that it notes that much suffering has resulted from these facts. However, its focus is exclusively on whether there was any discrimination involved. The Tribunal was satisfied that there was not.
130. The Tribunal had to consider whether the Claimant had been treated less favourably than anybody else who was not black African. The Tribunal is aware that it must compare the Claimant's position to anybody else in a comparable position. The comparable position for the purposes of this case is a colleague who was enrolled on a training course (of whatever nature) that they would, ultimately, not be able to complete because they did not satisfy the eligibility requirements. The Tribunal was presented with no evidence of any genuinely comparable person in such a position and it is quite possible that there has never been such a comparable colleague. If there had been, the Tribunal could not accept that they would actually have

been able to complete the course, as it is far more likely they would not have been. Even if they had, it is likely that they would only have been able to progress through their course due to a similar lack of oversight that occurred in the Claimant's case and not for any other reason.

131. By the time that was relevant to the Tribunal's determination, the Respondent's procedures and governance processes had improved. Even if there had been a departure from what may have happened in the past, it does not indicate there was any discrimination involved. The decision not to sign the V300 form would have resulted from the greater level of oversight that was now being provided by the ACP Professional Lead, which had not existed in the past. That would have been the only reason for the decision, not the Claimant's race.
132. Accordingly, for all those reasons each and every part of the claim cannot succeed. The Tribunal found it was not well founded and dismissed the claim.

Approved by:

Employment Judge M Hunt

Date: ...15 December 2025.....

Sent to the parties on:
16 December 2025

For the Tribunal Office.

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