



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4104453/2023

Held in Glasgow on 14 – 17 October 2025
Deliberations: 10, 20 and 21 November 2025

Employment Judge D Hoey

Ms L Edgar

Claimant
Represented by:
Mr R Clark -
Solicitor

Scottish Water

Respondent
Represented by:
Mr M McLaughlin -
Solicitor

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The claim is ill founded and it is dismissed.

REASONS

1. The claimant presented a claim for victimisation. Following a preliminary hearing and further discussions with the parties a large number of the detriments were withdrawn and the claim was focused. The Hearing had been fixed to determined liability only.

Evidence

2. The parties had produced a joint bundle of 368 pages (which included a small number of additional documents added during the Hearing). The Tribunal heard evidence from the claimant, Ms T McArthur (a colleague of the claimant who was a trade union official from whom the claimant, herself a trade union steward, took advice), Ms G Reid (the claimant's line manager, whose conduct the claimant relied upon as detriments), Mr Bingham (a colleague of the claimant) and Ms Boyce (another colleague).

Issues

3. The parties narrowed the issues in this case. By the time the Hearing called the following were the issues to be determined:
 1. The first protected act was the raising of the equal pay claim and this was accepted to be a protected act. The second protected act was the raising of a grievance by the claimant on 14 March 2023.
 2. The first issue to determine was whether the following alleged acts ("Alleged Acts") had been established in evidence:
 - (1) Ms Reid ignoring and ostracising the claimant in the period between 21 November 2022 and 29 March 2023;
 - (2) Ms Reid being curt with the claimant and/or failing to acknowledge the claimant in meetings between 21 November 2022 and 29 March 2023; and
 - (3) Ms Reid speaking to the claimant in a hostile and aggressive manner on 29 March 2023 and accusing the claimant of damaging Ms Reid's reputation as a manager; and that the claimant had damaged her own reputation; and by seeking to intimidate the claimant by stating "did you think I wouldn't find out about it"; and by accusing the claimant of being a 'liar'.
 3. If any of the Alleged Acts were done by the respondent, were they detriments pursuant to section 27(1) of the Equality Act 2010?
 4. If any of the alleged acts were detriments, were they done because of the First Protected Act?
 5. The next issue was whether the following ("Further Alleged Acts") took place: Ms Reid speaking to the claimant in a hostile and aggressive manner on 29 March 2023; and accusing the claimant of damaging Ms Reid's reputation as a manager; and that the claimant had damaged her own reputation; and by seeking to intimidate the claimant by stating "did you think I wouldn't find out about it"; and by accusing the claimant of being a liar.
 6. If any of the Further Alleged Acts were done, were they detriments pursuant to section 27(1) of the Equality Act 2010?
 7. If any of the Further Alleged Acts were detriments, were they done because the claimant did the First and/or the Second Protected Act?

Facts

4. The Tribunal was able to make the following findings of fact which it did from the evidence submitted to it, both orally and in writing. The Tribunal only

makes findings that are strictly necessary to determine the issues before it (and not in relation to all disputes that arose nor in relation to all the evidence led before the Tribunal). Where there was a conflict in evidence, the conflict was resolved by considering the entire evidence and making a decision as to what was more likely than not to be the case with regard to what was written and said at the time (when viewed in context). The Tribunal was able to use the statement of agreed facts and disputed issues presented by the parties.

Background

5. The respondent is a public body established under section 20 of the Water Industry (Scotland) Act 2002. The claimant is employed by the respondent, most recently as a Corporate Affairs Officer having commenced employment on 7 April 2003.
6. The claimant raised an equal pay claim on 4 July 2022. This related to a colleague (Mr Bingham) being paid more than her when employed in the same role. A preliminary hearing to determine whether there was a material factor defence took place 14 to 17 November 2022. During the hearing the claimant's line manager, Ms Reid, gave evidence on behalf of the respondent. Ms Reid gave evidence that she considered would be uncomfortable for the claimant to hear, notably skills the claimant lacked. Ms Reid felt she was not asked why considered there to be no sex discrimination in the appointment decision and that she had been treated unfairly (in cross examination and by the Judge). Reference was made in the judgment to health matters pertaining to Ms Reid which she considered unfair and unnecessary.
7. The unfair way in which she felt she had been treated caused Ms Reid to be unfit for work for one day following the Hearing. A complaint had been lodged to the President of the Employment Tribunal. An appeal was submitted by the respondent in respect of the original judgment (which had found in the claimant's favour). The Employment Appeal Tribunal found the Tribunal's decision to have contained legal errors and remitted the matter back to a freshly constituted Tribunal which then found in favour of the respondent.

Team dynamics

8. The team in which the claimant worked was small. It was headed by Ms Reid and comprised the claimant and 2 others. The other team members would regularly chat about their private lives but the claimant was more circumspect. Staff usually worked from home and latterly staff attended the office together one day a week. As there were no dedicated desks, the team chose where to sit and would usually sit near each other. Each Monday there was a team meeting, usually held remotely, where team members set out their working week. There would be some general chat at this meeting (such as what

people did over the weekend) but the claimant rarely engaged in that discussion and would often have her camera off. This was the position prior to and after the original Tribunal Hearing.

9. Ms Reid was an experienced manager and had a good working relationship with her team. The claimant's role was substantively different from that of her colleagues with her main focus on administrative matters (and updating the social media channels/updating team members and community engagement plans). Mr Bingham was a communication and broadcasting specialist with different skills to the claimant (including film and edit skills which were absent in the team). Ms Boyce was a communication expert and stood in for Ms Reid when she was absent on an informal basis. Mr Bingham and Ms Boyce would lead and run projects. The claimant was less strong in terms of writing skills.
10. The team was very busy and there were regular team meetings (often with other teams). Team meetings would regularly take place remotely. During these meetings the claimant would regularly have her camera and microphone turned off. She would not engage in much by way of small talk during these discussions. Ms Reid was flexible in her approach to management and adjusted her approach to suit those whom she managed. Ms Reid had praised the claimant and provided her (and her other team members) with support. She had advised the claimant that her work was important and she had an important part to play. Ms Reid was professional and supportive in terms of the working environment towards the claimant and her team members before and after the original Hearing (notwithstanding the claimant not engaging even less with Ms Reid following the original Hearing in terms of non work related discussions).
11. The claimant and Mr Bingham did not have a good working relationship. The claimant had used information Mr Bingham disclosed to her in confidence for her own personal gain and Mr Bingham had lost all trust in the claimant. As a consequence, he ensure the working relationship was professional but went no further. Ms Reid on occasion had to deal with issues that arose, including the claimant at one point complaining to her about how she had been treated by Mr Bingham (an interaction that had led her to write a diary entry, which she took on the day her claim was lodged, 4 July 2022).
12. The claimant had been a union representative for over 20 years. She had a good working relationship with the union secretary from whom she took advice particularly following the claim being presented.

Evidence at the first Tribunal hearing

13. The first Tribunal hearing heard evidence 14 to 17 November 2023. The claimant was present and heard the evidence Ms Reid gave which was critical

of some of the claimant's skills in comparison to other team members. The claimant also heard the robust cross examination of Ms Reid and how the Judge dealt with matters.

Claimant takes notes of some interactions with Ms Reid

14. Following the bringing of the Tribunal claim the claimant decided to take notes of any potential issues that arose at work which could be considered victimisation. The notes she took were of her view of what had occurred and were written from the claimant's perspective and in light of her belief that she was being victimised as a result of bringing her claim. The notes were not produced to the respondent (or Ms Reid) at the time nor were the issues raised within them raised at the time. There were a large number of other meetings which took place in respect of which no notes were taken where it appears the claimant had no issue. The interactions raised by the claimant were as follows.

23 November 2023 meeting

15. This was a remote project meeting which the claimant attended alongside 9 others. The meeting was chaired by a manager from another team. Ms Reid was present as was her colleague. While the claimant perceived that Ms Reid had not specifically acknowledged her, the meeting was not a team meeting and involved others. Everyone was free to contribute to this meeting and the claimant chose not to get involved. Ms Reid had been professional to the claimant and others at the meeting. Ms Reid treated the claimant as she did the others present at the meeting (which was in a professional way).

28 November 2023 meeting

16. This was a team meeting with 4 team members with one member on holiday. An office away day had been arranged a few days later. The purpose of the event was to help staff get to know each other. The claimant did not wish to attend the event and planned on working that day. The claimant was unhappy that Ms Reid had not referred to the claimant being the point of contact for any out of office and queries but Ms Reid did not wish to draw attention to the fact the claimant had chosen not to attend the away day. Ms Reid had prepared an email to the claimant to set out the position as to out of office messages. There were no issues with how Ms Reid related to the claimant.

6 January 2024 meeting

17. This was a meeting about ongoing works that the claimant and Ms Reid attended alongside 3 others. The claimant had been involved in the project alongside her colleague. It was the claimant's colleague who had raised the issue during the meeting. The claimant was asked at the end of the meeting,

along with the others in attendance, if there was anything else arising. There was no exclusion of the claimant nor lack of engagement by Ms Reid. The meeting was conducted professionally with no issues arising in relation to how the claimant was treated.

11 January 2024 meeting

18. This was a day when the team were in the office. While the claimant perceived that Ms Reid had not greeted her (or at least not in the same way as her colleagues) Ms Reid had acted professionally and courteously. During the day appropriate discussion took place with the team and Ms Reid (including the claimant) as to ongoing and relevant issues. There was no treatment by Ms Reid in relation to the claimant on this day which lacked professionalism or that was unreasonable.

25 January 2024 meeting

19. This was another day in the office with the team. An emergency had arisen with regard to water pipes which resulted in the team being extraordinarily busy. Those involved in external communications had to work flat out to deal with a fast paced changing situation. This was not a matter that fell within the claimant's skillset. She was not therefore engaged to deal with any of the issues. The claimant had not offered her assistance during the day nor raised any issue as to what had happened. During this day Ms Reid dealt with the issues arising (including the claimant) in a reasonable and professional way.

8 February 2024 meetings

20. This was another day in which the team was in the office. While the claimant believed that Ms Reid had ignored the claimant when saying good morning, Ms Reid had not heard the claimant and/or had been distracted given the rush to set up her computer and get ready for the day. Ms Reid acted professionally and reasonably in relation to her interactions with the staff including the claimant.

13 February 2024 meeting

21. On this day there was a teams meeting with the claimant, a colleague and Ms Reid. There was no "chit chat" but the meeting was conducted in a professional and reasonable way. Neither the claimant nor Ms Reid had engaged in "chit chat" and the discussion that took place related to work matters. There had rarely been "chit chat" involving the claimant as she ordinarily did not discuss her private life and usually attended the meetings with her camera and microphone off. There was nothing unreasonable or unprofessional in the way Ms Reid acted on this occasion in relation to the claimant or others.

22. The claimant had been unhappy with how Ms Reid had referred to a course that Ms Reid had to attend. Ms Reid was under pressure given the amount of work and was concerned that attending the course could increase the workload upon the team which was something Ms Reid, reasonably, wished to avoid. Ms Reid acted in a professional and collegiate way in relation to the discussion in this regard.

15 February 2024 meeting

23. This was a day when the team was in the office. The claimant believed that Ms Reid had not said "good morning" to her and no one acknowledged the claimant when she left the office later in the day. Ms Reid had not heard the claimant or had been otherwise engaged at the time in question. There was no basis to find that Ms Reid was purposefully ignoring the claimant or seeking to act in a non professional way. There was nothing Ms Reid did on this day that was unprofessional or unreasonable.

20 February 2024 meeting

24. This was an online meeting involving the claimant, Ms Reid and the 3 other team members. The claimant perceived that Ms Reid's "tone was very passive" but acknowledged that Ms Reid had interacted with her. While the claimant believed that there was no discussion with the claimant, it was open to the claimant and others to contribute to the discussion and raise any issue as required. Ms Reid acted professionally and reasonably during the discussion.
25. The claimant took no further notes as to interactions with Ms Reid despite there being further interactions. The claimant did not share the notes she had taken with anyone until this Hearing. She did not refer to them during the grievance process.

Complaint to President and decision not to mediate

26. Around 10 March 2023 a complaint was made (on Ms Reid's behalf) to the President about the conduct of the Employment Judge. Prior to the original Hearing Ms Reid had also told an HR colleague that she was upset as to how she had been treated by the respondent in relation to support for the Hearing. Ms Reid had also declined the offer to mediate.

Grievance

27. The claimant raised a grievance on 14 March 2023 claiming she was bullied and victimised by Ms Reid. The grievance was a short email which the claimant prepared herself. The claimant alleged she had been ignored, excluded and subject to unfair criticism by Ms Reid, and that work was being removed from her. A manager chaired the grievance process and met with

the claimant, Ms Reid and the three other team members as part of the grievance investigation. During the grievance process, a colleague had confirmed he told Ms Reid that he was aware of the claimant's tribunal claim due to a disclosure the claimant made to him directly in Autumn 2022.

28. The claimant had noted during a grievance meeting that she had a "fantastic relationship" with Ms Reid prior to the Tribunal but that changed. the relationship Ms Reid and the claimant enjoyed was a good working and professional relationship. She had also referred to the issues having occurred for over 6 months (when the time period was around 4 months). While some of the informal discussion had ceased following the Hearing, that was because both the claimant and Ms Reid had recognised the impact the Hearing had upon their relationship. Ms Reid maintained a professional approach when working and interacting with the claimant.
29. The claimant had subsequently alleged that the reason why she had lodged her grievance when she did was because "things had come to a head on 14 March and [she] was left with no choice". The only thing that had occurred on 14 March 2023 was that the claimant's solicitor had been told by the respondent's solicitor an appeal had been lodged against the original Tribunal decision. The claimant had also said during a grievance meeting that she did not leave the 29 March 2023 discussion sooner because she wanted to know what information Ms Reid had about her in terms of what had been said. At no stage had the claimant said she had taken notes of the interactions or that she believed Ms Reid had pointed or leaned towards the claimant
30. The team was aware of the Tribunal claim which had affected the team dynamics. Team members had become guarded as to what they would say. Ms Boyce also had a good working relationship with all the team members, especially the claimant. The claimant had previously been extremely sensitive to work challenges and on occasion had read more into interactions than was the case. The claimant had not suggested to Ms Boyce (or any colleague) that she considered there to be any issue with the team dynamics or Ms Reid's treatment of her.

29 March 2023 conversation

31. Ms Reid had been told by a number of colleagues that the claimant had raised issues about her belief that she had been treated badly by Ms Reid and that the claimant was discussing the Tribunal. Ms Reid had also been told by her manager that the claimant had raised a grievance about her. Ms Reid had spoken to an HR colleague and Ms Reid said she would raise the issues with the claimant in an informal basis with a view to ensuring the working relationship remained professional. The claimant had a conversation with Ms Reid on 29 March 2023 in an open area of the office.

32. Some months before, Ms Reid and the claimant had an amicable discussion during which it was agreed that the Tribunal would not be discussed at work. Ms Reid assisted the claimant in securing some paid leave to cover the Hearing. The meeting had been amicable and the parties agreed to continue to work professionally.
33. During the conversation on 29 March 2023 Ms Reid acknowledged that the tribunal proceedings had meant things were difficult for both her and the claimant and they should treat each other with respect. Ms Reid said that it had come to her attention that the claimant had been discussing the tribunal claim at work and her concerns that she was being left out of the team and having work taken off of her. The claimant strongly denied discussing the tribunal claim at work. At this point, the discussion became heated and the claimant and Ms Reid were both agitated.
34. The claimant said Ms Reid ignored her in the office, which Ms Reid denied and said that she went out of her way to say hello and task her with things, and if the claimant denied that was the case then she would be a liar. The claimant ended the meeting.
35. Shortly after this conversation, Ms Reid sent the claimant a summary of the discussion from her perspective. The covering email said: "I just wanted to confirm a summary of our conversation and what was discussed, I will make my line manager aware of the discussion as I'm sure you will your solicitor/union rep. If you can let me know if you wish to add anything to this but I believe I have reflected the important points on both sides. I do think it's important that we try to maintain a working relationship and I hope that this can be possible".
36. Immediately after the meeting the claimant had spoken with her union adviser. During that call the claimant received Ms Reid's note and then wrote up her own note. The claimant did not revert to Ms Reid with any comments nor provide Ms Reid with the note she had taken. There were a number of areas in which the notes differed but the tenor was similar. The notes reflected each party's understanding of what had occurred and recollection at the time.
37. The claimant attended work (and worked from home) for 2 days and then from 3 April 2023 and 1 September 2023, the claimant was absent from work due to work-related stress. The claimant was absent from work for around 6 months (which was the period of time during which full pay was due in respect of sick leave). The claimant had previously been absent (for around a few months) by reason of sickness during the grievance process in relation to her equal pay complaint as a consequence of the stress that process had placed upon her.

Outcome of grievance

38. The respondent wrote to the claimant on 21 June 2023 to advise that her grievance was not upheld saying no evidence of exclusion, unfair criticism or work being removed from the claimant had been found and the behaviour complained of did not amount to bullying or victimisation. The outcome letter noted the relationship between the claimant and Ms Reid had become untenable and recommended that they did not work in the same team going forward. Ms Reid's decision to meet the claimant had been ill advised.
39. Ms Reid had been concerned about working with the claimant given the way in which the original Hearing had progressed. Ms Reid did not want to line manage the claimant and felt that she had been given limited support by the respondent. Ms Reid felt angry and disappointed with the respondent and was upset with how she had been treated at the Tribunal. Ms Reid had no issue with the claimant having brought a claim and recognised that was her right. Ms Reid's concern was with the fact she believed the Tribunal process had been unfair. The respondent had required the claimant and Ms Reid continue in their roles and work together. Mediation had been offered but Ms Reid did not consider that feasible given the Hearing was ongoing. Ms Reid was already managing challenging issues as between the claimant and Mr Bingham and considered it her responsibility to ensure her continued professionalism in managing the team.
40. Ms Reid knew the claimant was an experienced trade union official and was concerned about retaliation following her giving evidence. Ms Reid decided to be careful as to what was said to the claimant and ensure she chose her words carefully and remained professional. She was concerned anything she raised could be used by the claimant to challenge Ms Reid. Prior to the Hearing the claimant had rarely engaged with chit chat in the office (unlike the other team members) and following the Hearing the non work discussion that took place reduced further. Neither Ms Reid nor the claimant made efforts to engage in non work related discussions. Ms Reid continued to involve the claimant in work related matters consistent with her skills and was professional in her interactions. People were guarded in the team and there was tension given what had occurred.
41. The claimant had a tendency to dwell on workplace interactions and raise negative inferences from matters that were not negative. An example was in relation to the claimant believing Ms Reid had ignored her when the claimant had sent a text to Ms Reid's work's mobile when Ms Reid did not usually check her work mobile telephone. This was an example of the claimant believing she had been negatively treated by Ms Reid when in fact there was an explanation for the treatment which was entirely neutral.

42. On 23 August 2023, the claimant raised a claim alleging victimisation.

Observations on the evidence

43. The Tribunal considered the evidence carefully and in context of all the evidence before this Tribunal, whether in writing or oral.

44. The **claimant** was clear and consistent in her belief that she had been victimised because she raised her claim. It was clear that this was the claimant's perception and that she had looked out for any behaviour that could have been so interpreted. The first issue in this regard was the claimant's decision to take notes about interactions that could show a pattern of such behaviour. Initially the claimant said she only took such notes to show this following upon the Tribunal Hearing but when a diary was put to her that she had recorded about a colleague that had predated the Tribunal Hearing she changed her position (since what she had said in evidence had been shown to not be factually correct).

45. While the claimant believed the notes she took of the relevant interactions were accurate there were a number of issues that arose. The most obvious issue was that they were the claimant's perception as to what occurred. Regrettably she chose not to disclose the notes at all during the material times, even when she chose to raise a grievance. This meant that the notes could not be challenged or at least the facts set out properly tested when memories were fresher (and the issues likely to be recalled). The fact that the claimant believed they would be more accurate was not necessarily the case, evidenced by the fact Ms Reid and the claimant both took notes of the same meeting on 29 March and yet both notes were in some ways different, evidencing that notes taken are the notes when filtered through the mind of the writer and from a particular perspective.

46. It was also notable that in evidence the claimant maintained Ms Reid had leaned towards her and pointed at her thereby becoming "quite aggressive". However, at no point at all during the claimant's raising of the issues nor in her claim form had the claimant ever suggested Ms Reid had done so. The fact this was only raised in evidence was surprising. Had the treatment occurred, it was more likely than not that this would have featured clearly in the claimant's articulation as to what had occurred at the time and in her complaint about Ms Reid's conduct when she subsequently discussed it and when her claim was raised given the claimant maintained it was a detriment.

47. There were a number of occasions where the claimant exaggerated the position or at least used imprecise language which had the potential to mislead. For example the claimant said in evidence she had "regularly" been invited to lunch with colleagues but it was clear this had happened on a few

occasions, not least given the limited number of days when the individuals were in the office together and how busy the team was (and the fact that if Ms Reid and Ms Boyce were having lunch they were often discussing work related issues). The claimant had also said that she had a “fantastic relationship” with Mr Reid prior to the Tribunal but that was not the case from the evidence. Ms Reid and the claimant had a good working relationship. While there were fewer non work interactions following the Hearing, Ms Reid still engaged with the claimant. There was a professional working relationship but it was not correct to suggest she had a “fantastic relationship”. Finally the claimant argued that her camera was usually on during team meetings. Each of the team members disagreed and her camera was usually off.

48. The claimant stated in evidence the reason why she had stopped taking notes and had not lodged her grievance shortly following doing so (and took a few weeks) was because she wanted to go through matters with the union in preparing the grievance. That was despite the grievance being a short email (which would take minutes to prepare) and despite the evidence of the claimant’s union adviser who said the claimant did not require any input and was perfectly able to deal with the grievance herself. The grievance itself had also referred to the claimant suffering the behaviour for 6 months. That was factually inaccurate as the period was around 4 months.
49. The claimant had told the respondent that “this came to a head on 14 March” which gave her “no choice but” to lodge the grievance. There were repeated attempts to ask the claimant why she used those words, and what it was that happened. Initially the claimant said there was nothing specific and later changed her position to suggest there had been a meeting which Ms Reid had again, in the claimant’s mind, excluded her, which led to the grievance being lodged. It was unlikely that this had occurred not least given the absence of any note of such an interaction (unlike the others relied upon).
50. The only event that occurred on 14 March was that the respondent told the claimant’s solicitor on that morning that the appeal against the Tribunal’s judgment had been lodged. It did not seem a coincidence that this was on precisely the same day the claimant said things had come to a head but the claimant repeatedly denied that had any impact upon her decision. That was not credible on the balance of probabilities.
51. There was also some inconsistencies in the claimant’s evidence. She had suggested for example that she had wanted to take time to consider preparing her grievance and seeking the input of her union representative while the claimant’s statement at the time suggested that it was events on 14th March that caused her to lodge a grievance, which contradicted her earlier evidence that she had in fact decided to lodge the grievance some time before the date she submitted it.

52. The claimant had also been recorded as having saying at a grievance meeting that she had not terminated the 29 March discussion sooner because she wished to see what information Ms Reid had said. The claimant had not suggested that had been wrongly captured and yet the claimant denied having adopted that position in cross examination.
53. The claimant had a tendency to view matters through the lens that supported the narrative she believed. Thus she was of the view that Ms Reid had ostracised her but it is evident from the facts about that the claimant was very much part of the team. Ms Reid had tried to involve the claimant whilst recognising the challenges this created given her evidence at the first hearing, which the claimant had heard. The claimant repeatedly complained that Ms Reid had failed to engage with her and yet there was no evidence of the claimant either raising this at the time or herself seeking to engage with Ms Reid. Such engagement is a two way process and it was clear that the claimant created challenges within the team, which was not the fault of anyone. The respondent's agent's submission that the claimant had an innate sensitivity to matters and wrongly interpreted words as detrimental and targeted towards her had merit. The respondent's agent's submissions as to the interactions relied upon by the claimant were accurate and a fair characterisation as to what had in fact occurred and the claimant's approach to these interactions. I recognised it was entirely possible some of the claimant's assessments of the interactions could have been accurate. It was not an all or nothing approach. Having assessed each interaction individually, however, I concluded that the respondent's agent's analysis and conclusions were correct in relation to each interaction and there was no evidence of any detrimental treatment at all (aside from Ms Reid in essence saying the claimant was a liar).
54. The claimant had difficulty in dealing with the consequences of the issues the Tribunal claim created within the team dynamics. While the claimant may have believed the fault lay at the door of Ms Reid, it was notable that she did not raise any concerns about this with anyone when she believed there to be issues. That was surprising because the claimant had a good working relationship with Ms Boyce who was entirely independent of the claimant and Ms Reid. Ms Boyce had a detailed knowledge of how the claimant dealt with issues and challenges. The claimant had a tendency to dwell on matters and perhaps see things from a particular perspective rather than able to see objectively what was occurring (which is not surprising).
55. Finally, when the claimant was asked why she had not simply raised matters with Ms Reid at the time, rather than taking notes which were used only for the Tribunal, the claimant was unable to provide a clear explanation noting only that Ms Reid had not asked her either.

56. **Ms McArthur** was a very experienced trade union representative (as the claimant had been). She was very sympathetic towards the claimant and had established a sound working and personal relationship. Regrettably there was no clear explanation given as to why the claimant had not raised the issues at an earlier opportunity informally to try and resolve matters which is often the best way to resolve issues before they become intractable.
57. A key issue in Ms McArthur's evidence was when she stated in cross examination that the claimant's relationship "all changed" after the 29 March meeting which had such a profound effect upon the claimant that it was the reason why the claimant had decided to lodge a grievance. Ms McArthur was clear on this point and noted her discussions with the claimant about this. When it was pointed out that the grievance in fact predated the 29 March meeting, Ms McArthur said she had been mistaken with the dates but she was unable to explain why she had said what she had said. Ms McArthur clearly wanted to support the claimant as best she could. It was notable that she did not think that the claimant required support in drafting the grievance which the claimant had done herself (which contradicted the claimant's evidence that she required the input of Ms McArthur which had explained why there had been a delay, despite the grievance being a few paragraphs long and despite the claimant having regular and detailed discussion with Ms McArthur about what was happening at the time).
58. **Ms Reid** was clear consistent and candid in her evidence. It was clear that there was considerable pressure placed upon the team both in terms of workload and as a consequence of the Tribunal Hearing. Ms Reid was upset at her perception that the respondent had not given her as much support at the time and she felt angry as to how she had been treated (inasmuch as she felt she had been unable to explain why sex was entirely irrelevant to the appointment decision which was what she believed the central issue to be). Ms Reid was clear and candid in having a good working relationship with all staff and adapting her style to challenging situations.
59. It was clear that the original Hearing had affected the team. It was natural that there would be challenges given Ms Reid had told that Hearing her view as to the claimant's shortcomings, which the claimant had heard.
60. Ms Reid gave clear evidence as to her professionalism in dealing with the significant workload, her desire to help the team and her desire to work with the team. She denied that there had been a "fantastic relationship" with the claimant. She was clear that she tried to be as professional as she could and was an experienced manager. Her evidence was more credible than the claimant's in that regard.

61. Ms Reid had been candid in terms of the challenges flowing from working with and managing the claimant given what had happened at the Hearing. Ms Reid knew the claimant would not be happy hearing the criticisms Ms Reid made of her. Given Ms Reid's union experience she was naturally concerned about potential ramifications at work and sought to be as professional as possible, even if not as friendly. Ms Reid sought to ensure a professional working relationship existed and did so. Neither Ms Reid nor the claimant sought to bridge that gap and develop the relationship other than on that basis. This was evidenced by the fact Ms Reid always tried to be civil and engage in morning greetings but on occasion Ms Reid believed the claimant would not reciprocate and sometimes Ms Reid held back to see what the claimant would do. This was an example of the care Ms Reid took in dealing with the claimant and her belief that the claimant had changed the way she dealt with Ms Reid.
62. Ms Reid noticed that the claimant had interacted with her in a different way following the original hearing. Given what had occurred it was natural that the working relationship would not be the same. The evidence before the Tribunal supported Ms Reid's position that she had been professional and did her best.
63. Ms Reid was clear and consistent despite repeated and robust attempts to seek to persuade her to concede that it was the claimant (and the raising of the claim) that had caused Ms Reid's anger or concern. Ms Reid resolutely confirmed that she was entirely capable of separating the claimant from the process. For her, the claimant's legal entitlement was just that. The issue that caused Ms Reid the concern was the way in which she perceived she had been treated by the Judge and cross examination, neither of which in any way linked to the claimant. The "elephant in the room" to which Ms Reid and others had referred was the Tribunal process which clearly affected the team dynamics. The fact the claimant had asserted her rights was not a matter that concerned Ms Reid and was severable from the process itself.
64. It was more likely than not that Ms Reid's recollection as to what had happened on 29 March was what occurred and to the extent the claimant's recollection differed, on balance I considered Ms Reid's recollection to be more likely what occurred. The claimant had been upset at the matter having been raised and was agitated. Ms Reid had provided her recollection by email as soon as the meeting given the way it had ended and had sought to be open and clear as to her position. While there were some inconsistencies in what Ms Reid and the claimant had set out, the general tenor was the same.
65. As set out below, while Ms Reid believed that the claimant had not told the truth as to being left out etc, calling the claimant a liar, was in essence said. It was said in the heat of the moment and while Ms Reid justified the term by reference to her belief that the claimant would be lying if she maintained her

position, using such a term in the specific circumstances and context was at best unwise. It was clear that the claimant was perhaps “mistaken”.

66. Ms Reid had done her best to be professional given she was required to work with the claimant (and vice versa). The dynamics within the working relationship were already challenged given Mr Bingham’s view that the claimant had breached confidence and destroyed trust. The fact there was conflict between the claimant and Mr Bingham in a small team was an important issue for Ms Reid. Ms Boyce was in essence left and had no gripe with her colleagues and was most able to assess independently what had occurred as set out below.
67. **Mr Bingham** was a communications expert. He had lost confidence in the claimant following her using information he communicated in confidence about his position to support her position. Mr Bingham did not trust the claimant and he maintained a professional approach only. Mr Bingham was aware of the challenging team dynamic caused by the claim. He saw no evidence of Ms Reid acting in a way that was anything but professional. He accepted that the Tribunal process had an impact upon the team which in essence led to there being less chit chat.
68. **Ms Boyce** was an impressive witness who gave a clear and candid account of the team dynamics. The claimant had confided in her before and she had experience as to how the claimant dealt with workplace issues. The claimant had dwelt on matters before and had been overly sensitive to workplace challenges and would “read into things”. Ms Boyce was clear as to the “team emotions” which she considered to be something that had happened to the team, rather than having been caused by one person. People had become guarded as a result of the claim. Despite Ms Boyce being close to the claimant (and closer than the other team members) it was notable that the claimant had not raised any concerns at all as to how she perceived Ms Reid to have treated her. That was surprising given the relationship Ms Boyce and the claimant had. Ms Boyce was clear that Ms Reid’s approach and dealings with the claimant (and others) was professional.

Victimisation – The law

69. Victimisation in this context has a specific legal meaning defined by section 27 of the Equality Act 2010:
 - (1) *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.*

(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.*

(3) *Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.”*

70. Something amounts to a detriment if the treatment is of such a kind that a reasonable worker would or might take the view that in all the circumstances it was to her detriment or disadvantaged – see paragraphs 31-37 of the speech of Lord Hope in **Shamoon v Chief Constable of the RUC** 2013 ICR 337. It is an objective test focussed on the perception of the reasonable worker in all the circumstances of the case. Detriment is, accordingly, treatment which a reasonable worker would or might regard as being to their disadvantage. It is not necessary for the claimant to demonstrate some physical or economic consequence.

71. The (then) House of Lords confirmed the position in **Derbyshire v St Helens Metropolitan Borough Council** 2007 ICR 841. Lord Neuberger opined 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. In assessing whether there is a detriment therefore consideration needs to be given to both subjective and objective elements, looking at matters from the claimant's point of view but his or her perception must be 'reasonable' in the circumstances.

72. This provision does not require any form of comparison. If it is shown that a protected act has taken place and the claimant has been subjected to a detriment, it is essentially a question of the "reason why". In other words, the protected act must be an effective and substantial cause of the treatment, it does not need to be the principal cause. The Tribunal is concerned with establishing what the real reason (conscious or subconscious motivation) or reasons for the treatment is.

73. Detriment is widely interpreted and not wholly on an objective basis (since provided a reasonable worker takes the view the treatment was disadvantageous the treatment may amount to a detriment, even if the

Tribunal would not have agreed). This was set out in **Warburton v Chief Constable** EAT 2020 376 at paragraphs 49 to 51 where it was noted “If a reasonable worker (although not all reasonable workers) might take the view that in all the circumstances it was to his detriment, the test is satisfied. It should not therefore be particularly difficult to establish detriment”.

74. In determining whether a detriment was because of a protected act, it is important that the protected act is identified with precision and that the relationship between the detriment and that act specifically is examined. In **JJ Food Service Ltd v Mohamud** EAT 0310/15 the claimant went to work in jeans in breach of his employer’s dress code. When challenged about this he alleged that the dress code was discriminatory as it was applied differently in relation to women. He was dismissed, ostensibly for breaching the dress code and disobeying management instructions, but he brought proceedings alleging that he had been victimised. A Tribunal upheld his claim on the basis that the fact that he had questioned the application of the dress code policy was a significant contributory factor in the decision to dismiss him. However, the Employment Appeal Tribunal allowed the employer’s appeal on the basis that the Tribunal should have asked itself whether the allegations of sex discrimination amounted to such a factor. While in some cases the Tribunal’s language might have been acceptable short-hand, in this case it was significant that the Tribunal did not ask itself the right question because there were other grounds on which the claimant was challenging the application of the dress code. This was a case where it might have been open to the Tribunal to conclude that it was, for example, the manner or persistence of his complaints rather than the content of them which had led to his dismissal.
75. The Tribunal has to consider not just whether or not the protected acts themselves were the reason but whether or not there are any other factors relating to the protected acts which were in the respondents’ mind when taking decisions. For example, employees may lose the protection of the anti-victimisation provisions because the detriment is inflicted not because they have carried out a protected act but because of the manner in which they have carried it out. An approach that distinguishes between a protected act and the manner of doing that act was endorsed by Mr Justice Underhill, in **Martin v Devonshires Solicitors** 2011 ICR 352. In his view, there were cases where the reason for the dismissal (or any other detriment) was not the protected act as such but some feature of it which could properly be treated as separable — such as the manner in which the protected act was carried out.
76. As with direct discrimination, victimisation does not need to be consciously motivated. The question is whether the protected act was a reason for the treatment (in the sense of significantly influenced the treatment), not what the person’s motivation was. Similarly there is no defence if the treatment had a

significant influence (in contrast to other forms of unlawful discrimination). This means the reason for the person so acting are not relevant once the reason has been identified.

77. In **Warburton *supra*** the Employment Appeal Tribunal confirmed all that needs to be established is that the protected act had a significant influence on the outcome. Motivation and other reasons are not relevant in assessing this. In this regard see **Nagarajan v London Region** 2007 IRLR 54 which confirmed that an “unconscious motivation” would be sufficient. Provided the Tribunal finds the protected act had a significant influence on the outcome, discrimination is established.

Submissions

78. Both parties had provided detailed written submissions to which the agents spoke and dealt with questions and provided supplementary material. The parties' submissions have been fully taken into account in reaching a decision in this case which has taken a considerable period of time given the issues arising in this case.

Discussion and decision

79. I approached each of the issues to be determined in turn, considering the facts, the law and the parties' submissions.
80. I took each disclosure in turn dealing with the first question, namely whether the alleged detriment took place and then, if relevant, the second question, namely whether any of the two disclosures (had they been established as protected and qualifying disclosures) had a material influence on the alleged detriment.
81. The **first detriment** was Ms Reid ignoring and ostracising the claimant in the period 21 November 2022 to 29 March 2023. I considered the evidence carefully in this regard. I am satisfied that on the balance of probabilities that Ms Reid did not ignore or ostracise the claimant as alleged. This was a decision I reached following a careful consideration of the evidence before the Tribunal in terms of what had happened on each occasion relied upon and more generally from the workplace interactions that took place.
82. The claimant genuinely believed that she was being ostracised and would interpret interactions in such a way. She believed Ms Reid was treating her in this way but the claimant's interactions with Ms Reid were viewed by the claimant through that prism. In other words, the claimant was looking out for any evidence which could support her belief that she was being treated differently (even if there may have been an entirely innocuous explanation for not having heard the claimant etc). The notes the claimant took in respect of

the meetings relied upon were the claimant's perception. It was regrettable that the notes were not produced at the time taken. It was also regrettable that the claimant did not raise the issues relied upon at the time. It is likely that had the claimant raised the issues with Ms Reid at the time, Ms Reid would have explained what had happened (or not happened and the claimant's perception might well have been altered such that the ongoing relationship could have been different).

83. I accepted Ms Reid's account that she was professional towards the claimant on the occasions the claimant said she had been ostracised. There was no doubt that there was an awkwardness but this was not solely the responsibility of Ms Reid as line manager. It was clear that the claimant had not engaged with Ms Reid for example in relation to the small talk. Those types of discussion require both participants to engage. It was clear that neither party did wish to have such discussions.
84. The team's working dynamics had changed. I considered carefully whether there was evidence of Ms Reid ignoring and ostracising the claimant but I was satisfied on the balance of probabilities it was not. Ms Reid wanted in fact to ensure the relationship was professional. She had done so but she wanted to ensure she did nothing which could upset the claimant and was careful in her dealings with the claimant to maintain professionalism.
85. There was clear evidence of interactions between Ms Reid and the claimant and the claimant was an important member of the team and treated by Ms Reid as such. While the claimant had complained that there were instances where she believed she had been ignored, these were more likely than not to have been instances of Ms Reid simply not hearing the claimant or having been too focused on other matters rather than Ms Reid having taken a conscious decision to ignore or ostracise the claimant. From the evidence the claimant had not been ignored nor excluded.
86. The first detriment had not been made out.
87. I then considered the **second detriment**, namely Ms Reid being curt with the claimant and/or failing to acknowledge the claimant in meetings between 21 November 2022 and 29 March 2023.
88. I considered the evidence before the Tribunal both what was said and the written material. Again the claimant was clear that she believed Ms Reid was being curt with her and failed to acknowledge her. However, I preferred the evidence of Ms Reid who stated that she had been professional with the claimant and had not been curt with the claimant nor ignored her, at least on purpose. Ms Reid's position was broadly supported by the evidence given by the other team members. While things were naturally awkward, it was clear

that Ms Reid had been professional in her interactions with the claimant and Ms Reid had involved the claimant where possible and acknowledged her.

89. I took careful account of the claimant's evidence and her fervently held belief that Ms Reid had ignored the claimant and been short and curt with her. I was not satisfied on the balance of probabilities this had in fact occurred. It was more likely than not that Ms Reid had not heard the claimant or that there was another innocuous explanation (such as having arrived late or setting up the computer). There were occasions where the parties did not speak, such as at the start of remote meetings, but that was not Ms Reid ignoring the claimant or failing to acknowledge her but was how the meetings were conducted, with the claimant's camera being off and there being little non work discussion taking place both by Ms Reid and by the claimant. It was clear that there was tension in the team but Ms Reid was not curt with the claimant and she did not fail to acknowledge her from the evidence.
90. The second detriment had not been established.
91. As none of the acts relied upon prior to 29 March 2023 had been established, it is not necessary to consider these further. From my analysis of each interaction I was satisfied that there was no detrimental treatment during the meetings and interactions relied upon as alleged against Ms Reid. Each interaction was professional and reasonable. There was no reasonable basis the claimant could have considered there to have been disadvantageous treatment that could objectively be considered detrimental when properly viewed (from the claimant's perspective in light of the legal test above). In relation to each incident, the claimant had read into the situation something which aligned with her perception that Ms Reid was treating her unfairly or negatively but objectively viewed that was not present and it was solely the claimant's perception given the context and way in which she viewed Ms Reid. The treatment relied upon in relation to the first and second detriments had not been established and did not amount to a detriment.
92. The **final detriment** relied upon was that Ms Reid spoke to the claimant in a hostile and aggressive manner on 29 March 2023 and accused her of damaging Ms Reid's reputation as a manager and had damaged her own reputation and had sought to intimidate the claimant saying "did you think I wouldn't find out about it" and accusing the claimant of being a liar.
93. This detriment is the claimant's belief as to what she was told by Ms Reid at the 29 March meeting. I carefully considered Ms Reid's evidence and that of the claimant in this matter. Having considered all the evidence, including the material both parties produced at the time, I was satisfied on the balance of probabilities that Ms Reid's position was to be preferred.

94. I did not accept the claimant's agent's submission that so far as relevant any material difference from the accounts of the 29 March meeting should lead to me preferring the claimant's account. I considered that on balance Ms Reid was more likely to have accurately captured what had been said. She had been concerned as to how the meeting had progressed and set this out in writing and sent her account to the claimant for comment. The claimant made no comment but instead made her own account but raised no issue with Ms Reid. I found Ms Reid's position more credible than that of the claimant. The claimant's approach had been to view interactions in a negative way, looking for an interpretation that supported her belief that Ms Reid was not acting in a legitimate way. Ms Reid's account was more likely than not to be correct, having considered the evidence of both Ms Reid and the claimant in context.

95. I was not satisfied that Ms Reid spoke to the claimant in a **hostile and aggressive manner** on 29 March 2023. It was likely that the claimant believed that Ms Reid had done so but this was because she believed that Ms Reid was victimising her and the claimant viewed the interactions Ms Reid had with her from this negative perspective. The claimant was unhappy that Ms Reid had raised the issues. Regrettably the claimant had not responded to Ms Reid's communication issued after the meeting to make the issues she now raises clear. I accepted Ms Reid's evidence that she had been agitated as the meeting progressed which had mirrored the claimant's position. It was clearly unwise to have had the informal discussion and both parties became agitated but from the evidence Ms Reid had not been hostile and aggressive.

96. I did not find Ms Reid had referred to the claimant's actions damaging reputations or that she had asked the claimant "did you not think I wouldn't find out about it". I also did not find Ms Reid had pointed to the claimant, leaned forward or snorted at her. I took into account that Ms Reid was of the view her reputation had been damaged (which was a fact) but I accepted her evidence that she had not referred to that during the altercation which had proceeded as she had set out in writing (in line with her oral evidence). The fact Ms Reid knew about the grievance did not mean therefore she had been hostile and aggressive. Rather, she wished to speak with the claimant (as she had done prior to the Tribunal) in an amicable and professional way to find a way to work together.

97. I took into account the fact the claimant was extremely upset as a result as confirmed by Ms McArthur, who was sympathetic towards the claimant. However, the upset was more likely to have been the claimant's view of what Ms Reid had said and her interpretation of the motivation of Ms Reid in raising matters. This was consistent with how she had viewed previous interactions. The claimant was an experienced union representative and used to difficult interactions but clearly, as Ms Boyce noted, the claimant had her own way of

viewing matters and dealing with challenging situations, often dwelling on matters or reading things into the interaction. The claimant and Ms Reid were both agitated and the meeting ended poorly. However, having reviewed the evidence fully and in context Ms Reid was not aggressive or hostile.

98. I was also satisfied that Ms Reid had not accused the claimant of damaging Ms Reid's reputation as a manager and had damaged her own reputation. This was something the claimant said Ms Reid had referred to during the meeting. Ms Reid denied he said it, having accepted it was factually correct (as she did believe reputations had been affected). There was no reference to this in Ms Reid's note. The claimant had not raised it as having been said at the time, albeit the claimant referred to it in her private note of the meeting. I considered on the balance of probabilities that Ms Reid's recollection was the correct one and that the comment had not been made, even if the claimant believed it had been said.
99. It was then alleged that Ms Reid had sought to intimidate the claimant saying "did you think I wouldn't find out about it". It was notable that during the claimant's evidence she alleged Ms Reid's body language had been such as to intimidate her, by sitting forward and pointing at the claimant and snorting. This was a serious accusation but had not featured at all in the claimant's note she had taken following receipt of Ms Reid's note. I was satisfied that Ms Reid's position was more likely than not to have been the case. I did not consider that Ms Reid had sought to intimidate the claimant. Rather Ms Reid wished to have an informal discussion given what Ms Reid had learned from colleagues. Ms Reid had spoken to HR and advised that she was having the discussion, even although doing so was plainly not a wise decision. I considered that the claimant had been mistaken in her recollection and that Ms Reid had not been intimidating towards the claimant as alleged.
100. Finally I then considered whether Ms Reid had **accused the claimant of being a liar**. I took into account the discussion that took place and the context which is vital in assessing the evidence. What Ms Reid said was that in essence if she maintained her position she was lying and she would be a liar. Ms Reid was setting out what she believed the position to be since she was clear that what the claimant was saying was not true and that she was lying. I concluded from the interaction that took place that Ms Reid had said the claimant was a liar (in essence). That was what Ms Reid believed since she was clear that the matters about which the claimant complained as to what the claimant said Ms Reid had done, were not believed by Ms Reid to be true.
101. I then considered whether saying this was a detriment. From the evidence, being called a liar during a workplace discussion which was in essence what Ms Reid was saying is a detriment. It would be reasonable for the claimant to

feel upset as a consequence of the use of that language in the workplace even in the heat of the moment given the context.

102. I then turned to consider whether the detriment which had been established, Ms Reid effectively calling the claimant a liar, was because of either of the protected acts in the sense required by the authorities. The legal question is whether the raising of the claim or grievance had a significant influence on the treatment (consciously or otherwise).
103. The claimant's agent made lengthy submissions on why it was said that the raising of the claim or the grievance had a significant influence on Ms Reid either consciously or subconsciously. I considered those submissions and the evidence carefully. I accepted Ms Reid's evidence that the reason she called the claimant a liar (whether conditionally or otherwise) was because that was what Ms Reid believed to have occurred. If the claimant was presenting what she had said as a truth, Mr Reid's position was that there were untruths and she was a liar.
104. Despite repeated and robust cross examination, Mr Reid was clear and consistent in stating that the bringing of the claim and the grievance raised had no influence on what she said at the meeting (including that the claimant would be a liar if she maintained her position). I accepted Ms Reid's evidence in that regard. She had no issue with the claimant bringing the claim; that was her right to do so and the pay to which she was entitled (or found entitled to) was a matter personal to the claimant (and did not affect Ms Reid). There was no link at all between the claim the claimant had raised and the comments Ms Reid made towards the claimant. The first protected act, the bringing of the claim, in no sense had any influence on the treatment.
105. I then considered the second protected act, the grievance, and the link with Ms Reid's comment. As the claimant's solicitor noted, there was a temporal link but the meeting was not immediately following the grievance; it was over a fortnight later. Ms Reid had been unhappy with how she had been treated at the original hearing, unhappy with the support the respondent had given her and had been party to a complaint to the President. Ms Reid was clear and consistent that this was because of her view as to how she was treated by the Judge (and to an extent the cross examination to which she was subject) and entirely unrelated to the claimant's bringing of the claim and grievance. I accepted that evidence taking into account the full context.
106. The claimant's agent notes that it was put to Ms Reid that "it would have taken the patience of a saint" not to have reacted to the grievance and that the grievance did consciously or subconsciously influence Ms Reid when she confronted the claimant on 29 March. Ms Reid's evidence was clear that the only reason she wanted to meet the claimant was because she had learned

staff had been discussing the issue and that the claimant had complained about her. From the evidence Ms Reid's comments (which is the detrimental treatment, as opposed to the meeting *per se*) were not significantly influenced (in a more than minor or trivial way) by the bringing of the grievance. Ms Reid believed that the claimant was not truthful and said that she would be a liar if she maintained the untruth she had advanced. I found Ms Reid's evidence to be compelling and I accepted it. In reaching this conclusion I took into account that Ms Reid felt she had been unsupported by her employer, that she perceived bias by the Judge and had raised a complaint with the President. That did not, however, lead inexorably to the conclusion the detrimental treatment was influenced by the protected acts. I had to look at the full context which I did carefully and in detail.

107. The claimant's agent argued that as Ms Reid accepted the catalyst for the 29 March conversation was the claimant telling people that she had been leaving the claimant out (and taking work off her), one could not separate that from the grievance. While that may be so, that was the reason for the conversation being initiated by Ms Reid. It was not an influence on Ms Reid telling the claimant she was a liar. There is an important distinction. I recognised that a person is not likely to readily admit a connection between the protected acts and the treatment and so I have been careful to assess the evidence in detail and as a whole, particularly in light of the context (and points raised by the claimant's agent). I considered the reason why Ms Reid said what she said and considered on the balance of probabilities whether the protected acts had any influence upon her in making the comment she did.
108. I took careful account of the claimant's agent's argument that "it was difficult to imagine a set of circumstances which more strongly supports an inference that the protected acts either consciously or unconsciously operated on the mind of Ms Reid". The context is important but equally the evidence of Ms Reid is the best evidence. She was credible and reliable in relation to her explanation as to why she said what she said despite robust cross examination and when viewed in context. It is of course possible that Ms Reid had not recognised the impact the grievance had upon how she conducted herself such that the inference could be drawn but having carefully assessed the evidence in this case, Ms Reid had satisfied me the bringing of the grievance (and the claim) had no influence upon the detrimental treatment.
109. I took into account each of the factors the claimant's agent said supported the drawing of an inference as to the protected acts having a significant influence on the treatment. Ms Reid was unhappy about the lack of support she had been given. She believed the Judge had displayed bias towards her and had complained to the President and knew the claimant raised a grievance before she had the meeting. The whole point of the meeting was to try and find a way

forward with regard to the working relationship. I took into account that the email Ms Reid said she had been sent informing her of the grievance had not been included in the productions. While the claimant's agent argued this raises the inference and does not support the respondent's case, it is equally possible the email had been overlooked or not considered relevant. I did take it into account.

110. The claimant's agent also asked I take into account the fact Ms Reid refused to disclose who it was that told her the claimant had been speaking to others. That information was not strictly necessary but the respondent's agent disclosed at submissions there was a sound reason for Ms Reid refusing to disclose that information. I balanced her refusal to disclose the persons involved with her other evidence and decided that it did not result in Ms Reid's evidence being less credible in relation to the material issue. Ms Reid chose not to breach the confidence of colleagues.
111. The timing of the protected acts and altercation of 29 March was also relevant and I took that into account as I did the fact Ms Reid had been told by the respondent during the grievance process that the meeting of 29 March was ill advised. I also noted that the team dynamics had changed but I placed considerable weight upon the evidence of Ms Boyce who explained that this was not the fault of anyone but due to everyone knowing the background and the difficulties that created in practice.
112. The claimant's agent argued the fact Ms Reid considered the relationship with the claimant to have been OK supported the assertion the protected acts influenced the treatment. I did not accept that submission since Ms Reid had shown she wished to ensure the relationship was professional and took greater care following the proceedings in what she said to the claimant (knowing there was a risk that the claimant as an experienced union representative would be on the look out for any inappropriate comment). This was related to the next fact relied upon, namely that on occasion Ms Reid would wait to see the claimant said "good morning" to her. This was an example of Ms Reid recognising the way in which the claimant acted following the Hearing had changed. The interactions between both were mutual. Ms Reid was not immune to how she was being treated and on occasion waited to see what Ms Reid would do. That did not support the assertion what she said on 29 March about the claimant was influenced by the protected acts.
113. I balanced the facts that Ms Reid found the Tribunal process traumatic and that she had been personally adversely affected by it when considering the influence the protected acts had upon the treatment. The fact Ms Reid did not wish to enter mediation or work with the claimant was also relevant. Ms Reid felt she could not manage the claimant and felt hurt and upset. Ms Reid let

bullied and victimised but would ensure a professional relationship existed with the claimant but no more.

114. The claimant's agent relies upon the fact Ms Reid had said she would support the claimant, praise her and build her confidence. There was no evidence, however, that the rationale underpinning this had changed. Ms Reid remained professional and continued to involve the claimant in work issues thereby seeking to develop her skills and build her confidence. Ms Reid had been supportive to the claimant on a number of occasion, noting the importance of her work. Ms Reid's approach to the claimant in terms of being professional in her work interactions with the claimant did not change. The approach taken to the claimant had no impact upon what Ms Reid said on 29 March.
115. The claimant's agent noted Ms Reid called the meeting because she had found out about the grievance. However, Ms Reid had also called the meeting because she had learned from colleagues the claimant was discussing issues. The reason for the meeting was to recognise the situation was difficult and challenging for both (a matter both parties agreed was said to start the meeting). Ms Reid had hoped the meeting could result in a way to move forward in a professional fashion, as Ms Reid believed she had done in terms of her interactions with the claimant and had been done when she met the claimant prior to the Hearing.
116. The claimant's agent also relies upon the fact the working dynamics changed, there was less chit chat and the Tribunal process was the "elephant in the room". Team members were aware of the Tribunal and the approach this had upon the team dynamics. The issue, however, is whether the protected acts had any influence upon how Ms Reid conducted the 29 March meeting. The context is relevant but team dynamics and matters referred to had no relevant influence on Ms Reid's statement to the claimant about being a liar.
117. I took a step back and considered each of the matters referred to by the claimant's agent and the facts and context behind the discussion that took place. I carefully considered the points arising in light of the authorities in considering whether either protected act had any influence upon the detrimental treatment. Having done so carefully, I concluded the matters relied upon by the claimant's agent were background facts but neither protected act had any influence upon Ms Reid's decision in the heat of the moment to say the claimant would be a liar if she maintained her position. That was Ms Reid's view and would have remained the position irrespective of the matters relied upon by the claimant's agent (which did not have any influence upon Ms Reid making the comment).
118. I considered carefully Ms Reid's evidence in light of the factual matrix. I accepted the respondent's agent's submission that the conversation was

initiated because of the discussions that had been taking place (and the matters giving rise to the grievance against her). However, the issue is not what the reason for the comments were, as noted by the respondent's agent, but instead whether the protected acts had a significant influence on the detriment. It is possible for the words to have such an influence, without being a reason for them. I have to consider the context and evidence in full and carefully in making this decision. I did not consider the claimant's agent's argument that the detriments were "inextricably intertwined" with the protected acts to be correct. They were naturally part of the context but that did not mean the acts influenced the treatment which was something I had to consider from the evidence carefully in light of the authorities recognising that the protected acts could be an influence even without knowing it.

119. Having carefully assessed the evidence and applied the legal tests, I was satisfied neither the bringing of the claim nor the grievance had a significant influence in the sense required by the authorities on the detrimental treatment relied upon. Ms Reid satisfied me the claim and grievance had no influence upon her comments at the 29 March meeting, consciously or otherwise.
120. As the other detriments had not been established on the evidence and the detriment that had been established was not because of any protected act, the claim is dismissed.
121. Finally, I wish to thank the agents for their professionalism in their conduct of the claim and in the way they worked together to assist the Tribunal in achieving the overriding objective.

Date sent to parties

25 November 2025