Case Numbers: 2202003/2024

Reserved Judgment

EMPLOYMENT TRIBUNALS

BETWEEN

Claimant	**and**	**Respondent**
Miss C Royer		**Marks & Spencer Plc**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

SITTING AT: London Central **ON: 2-9 September 2025; 29 September 2025 (in chambers)**

BEFORE: Employment Judge A M Snelson **MEMBERS: Mr S Pearlman, Mr K Ghotbi-Ravandi**

On hearing the Claimant in person and Dr C Hill, counsel, on behalf of the Respondent, the Tribunal determines that:

(1) The Claimant's complaints of direct race discrimination are not well-founded.
(2) The Claimant's complaint of unfair dismissal is not well-founded.
(3) The Claimant's claim for unpaid wages (put as a complaint of unauthorised deductions from wages, alternatively breach of contract) is not well-founded.
(4) The complaints of direct race discrimination other than those numbered 3.2.16, 3.2.17, 3.2.18, 3.2.19, 3.2.20, 3.2.21 and 3.2.22 in the list of issues appended to the accompanying reasons fail on the further ground that they were presented out of time and the Tribunal has no jurisdiction to consider them.
(5) Accordingly, the proceedings as a whole are dismissed.

REASONS

Introduction

1 The Respondent is a large retail organisation which employs over 63,000 people in Great Britain.

2 The Claimant, who describes herself as black, was continuously employed by the Respondent as a Personal Assistant ('PA'), for over nine years. The employment ended with dismissal on 28 October 2023, on the stated ground of redundancy.

3 By her claim form presented on 21 February 2024, which followed a period of Early Conciliation between 10 December 2023 and 21 January 2024, the Claimant brings numerous complaints of direct race discrimination and claims for unfair dismissal and unpaid wages.

4 The Respondents resist all claims on their merits and a large proportion on the further ground that they have been brought out of time.

5 At preliminary hearings for case management conducted by Employment Judge Richard Wood on 1 July and 9 September 2024, the issues were defined, a directions timetable set and a final hearing fixed to commence on 2 September 2025 with six consecutive sitting days allocated. So far as now relevant, the list of issues agreed between the parties and approved by EJ Wood is included as an appendix to these reasons.[1]

6 The final hearing came before us on 3 September this year, the first day of the allocation having been lost as a result of the need to draft in a non-legal member from outside the London Central Region. The Claimant appeared in person and presented her case ably. The Respondent had the advantage of being represented by Dr Hill, counsel. We should add that Dr Hill conducted the proceedings with great care and courtesy and did nothing to warrant the regrettable attack which the Claimant directed at him in her closing submissions.

7 At the start of the hearing and during it, some minor procedural issues arose concerning the bundle of documents and late disclosure on both sides. We gave short oral reasons for our rulings. In essence, we regretted the failures (on both sides) to comply fully with the case management directions, but exercised our discretion to admit, rather than exclude, material, judging that the balance of prejudice and the interests of justice generally favoured doing so.

8 Owing to the delayed start, we were not able to complete the hearing within the original allocation and, having reserved judgment on 9 September, we completed our private deliberations on 29 September, the first date on which the three members of the Tribunal could meet.

9 The Tribunal regrets the delay in producing this judgment, which results from an unhappy combination of unprecedented pressure of work in the Tribunal and the judge's absence for substantial parts of October and November on leave, sitting in another jurisdiction and attending training courses.

Evidence

10 The Tribunal received oral evidence from the Claimant and her supporting witness, Ms Cici Ofoegbu, and, on behalf of the Respondent, Ms Lauren Mallon, Head of People in Foods (an HR role), Ms Rachel Lowe, at all relevant times Line Manager Advisory Services Manager (who investigated the Claimant's grievance), Ms Liz Buxton, at all relevant times People Partner for Foods (an HR role), Mr

[1] The document addresses the discrimination and unfair dismissal claims only.

Malcolm Basey, at all relevant times Head of Supply Chain Operations and Development (who handled the redundancy consultation process), and Ms Sreena Jamieson, Head of Online Business Change (who conducted the Claimant's grievance appeal). We also read a statement in support of the Claimant's case written by Ms Louise Nicholls, for many years a senior executive in the Respondent, with whom the Claimant worked for a number of years up to 2019.

11 In addition to witness evidence, we read the documents to which we were referred in the bundle and supplementary bundle, which, as a result of certain additions in the course of the hearing, ran to over 800 pages in total.

12 We also had the benefit of a useful cast list.

13 The paperwork was completed by the helpful written closing submissions on both sides.

The Legal Framework

Direct discrimination

14 The Equality Act 2010 ('the 2010 Act') protects employees and applicants for employment from discrimination and analogous torts. Chapter 2 lists a number of forms of 'prohibited conduct'. These include direct discrimination, which is defined by s13 in (so far as material) these terms:

> **(1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.**

'Protected characteristics' include race, which includes colour (s9(1)). By s23(1) and (2)(a) it is provided that, for the purposes of (*inter alia*) a direct discrimination claim, there must be no material difference between the circumstances of the claimant's case and that of his or her comparator and that (for these purposes) the 'circumstances' include the claimant's and comparator's abilities.

15 In *Nagarajan* v *London Regional Transport* [1999] IRLR 572 HL Lord Nicholls construed the phrase 'on racial grounds' in the Race Relations Act 1976, s1(1)(a), in these words:

> **If racial grounds … had a significant influence on the outcome, discrimination is made out.**

In line with *Onu v Akwiwu* [2014] ICR 571 CA, we proceed on the footing that introduction of the 'because of' formulation (which replaced 'on racial grounds', 'on grounds of age' etc in the pre-2010 legislation) effected no material change to the law.

Protection against discrimination

16 Discrimination is prohibited in the employment field by s39 which, so far as relevant, states:

> **(1) An employer (A) must not discriminate against an employee of A's (B) –**
>
> **…**
> **(c) by dismissing B;**
> **(d) by subjecting B to any other detriment.**

A 'detriment' arises in the employment law context where, by reason of the act(s) complained of a reasonable worker would or might take the view that he or she has been disadvantaged in the workplace. An unjustified sense of grievance cannot amount to a detriment (*Shamoon v Chief Constable of the RUC* [2003] IRLR 285 HL).

17 The 2010 Act, by s136, provides:

> **(1) This section applies to any proceedings relating to a contravention of this Act.**
>
> **(2) 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) But subsection (2) does not apply if A shows that A did not contravene the provision.**

18 On the reversal of the burden of proof we have reminded ourselves of the case-law decided under the pre-2010 Act legislation (from which we do not understand that Act to depart in any material way), including *Igen Ltd v Wong* [2005] IRLR 258 CA, *Laing v Manchester City Council* [2006] IRLR 748 EAT, *Madarassy v Nomura International plc* [2007] IRLR 246 CA and *Hewage v Grampian Health Board* [2012] IRLR 870 SC. In the last of these, Lord Hope warned (as other distinguished judges had done before him) that it is possible to exaggerate the importance of the burden of proof provisions, observing (para 32) that they have 'nothing to offer' where the Tribunal is in a position to make positive findings on the evidence. In *Efobi v Royal Mail Group Ltd* [2021] 1 WLR 3863, Lord Leggatt passed similar comments, adding (para 41):

> **I think there is a risk of making overly legal and technical what really is or ought to be just a matter of ordinary rationality. So far as possible, tribunals should be free to draw, or decline to draw, inferences from the facts of the case before them without the need to consult law books before doing so.**

But where the burden of proof provisions have a part to play, we take as our principal guide the straightforward language of s136. Where there are facts capable, absent any other explanation, of supporting an inference of unlawful discrimination, the onus shifts formally to the employer to disprove discrimination. All relevant material, other than the employer's explanation relied upon at the hearing, must be considered.

19 By the 2010 Act, s123(1) it is provided that proceedings may not be brought after the end of the period of three months ending with the date of the act to which the complaint relates, or such other period as the Tribunal thinks just and equitable. 'Conduct extending over a period' is to be treated as done at the end of the period (s123(3)(a)). Now, under the Early Conciliation provisions, the limitation period is further extended by the time taken up by the conciliation process. The 'just and

equitable' discretion is a broad power but one to be used with restraint: its exercise is the exception, not the rule (see *Robertson v Bexley Community Centre* [2003] IRLR 434 CA).

Unfair dismissal

20 The first prerequisite for an unfair dismissal is a dismissal. By the Employment Rights Act 1996 ('the 1996 Act'), s95 it is provided that:

> **(1) For the purposes of this Part an employee is dismissed by his employer if …**
>
> **(a) the contract … is terminated … by the employer …**

21 Where, as here, the fact of dismissal is not in question, the outcome of the claim depends entirely on the proper application of the 1996 Act, s98. It is convenient to set out the following subsections:

> **(1) In determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show –**
>
> **(a) the reason (or, if more than one, the principal reason) for the dismissal, and**
> **(b) that it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.**
>
> **(2) A reason falls within this subsection if it – …**
>
> **(c) is that the employee was redundant …**
>
> **(4) Where the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) –**
>
> **(a) depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and**
> **(b) shall be determined in accordance with equity and the substantial merits of the case.**

22 Redundancy is addressed under the 1996 Act, Part XI which provides (*inter alia*) that an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to the fact that the requirements of the business for employees to carry out work of a particular kind have ceased or diminished, or are expected to cease or diminish (s139(1)(b)(i)).

23 Although our central function is simply to apply the clear language of the legislation, we are mindful of the guidance provided by the leading authorities. From *Iceland Frozen Foods Ltd v Jones* [1982] IRLR 439 EAT and *Post Office v Foley; HSBC Bank v Madden* [2000] IRLR 827 CA, we derive the cardinal principle that, when considering reasonableness under s98(4), the Tribunal's task is not to substitute its view for that of the employer but rather to determine whether the employer's decision to dismiss fell within a band of reasonable responses open to him in the circumstances. That rule applies as much to the procedural management of the case as to the substance of the decision to dismiss (*Sainsbury's Supermarkets*

Ltd v Hitt [2003] IRLR 23 CA). The 'band of reasonable responses' principle is applicable in the redundancy context no less than where the dismissal is based on conduct, capability or any other reason (*Williams v Compair Maxam Ltd* [1982] ICR 156 EAT, particularly at 161E).

Unauthorised deductions from wages

24 By the 1996 Act, s13(1) a worker has a right not to suffer a deduction from his/her wages. Where the total wages payable is less than the amount 'properly payable' (after deductions, the amount of the deficiency is to be treated as a deduction (s13(3)).

25 The combined effect of the 1996 Act, s23(1), (2), (3), (3A) and (4) is that the Employment Tribunal has jurisdiction to consider a complaint based on an alleged contravention of s13 if it is presented within the period of three months plus any additional period for Early Conciliation, commencing with the date of the payment from which the deduction was made (or, where applicable, the last in a series of such deductions) or, where it was not 'reasonably practicable' to present the claim within that primary period, such further period as the Tribunal considers reasonable.

Contractual jurisdiction

26 The claim for unpaid wages may be seen as a claim under the Tribunal's contractual jurisdiction, rather than as a complaint of unauthorised deductions from wages. That jurisdiction lies under the Employment Tribunals Extension of Jurisdiction (England & Wales) Order 1994. Here, a much more generous limitation regime applies as, by virtue of article 8, a claim may be brought up to three months (plus any extension for Early Conciliation) after the termination of the relevant contract of employment.

The Primary Facts

27 The evidence was extensive. We have had regard to all of it. Nonetheless, it is not our function to recite an exhaustive history or to resolve every evidential conflict. The facts essential to our decision are set out below.[2]

Background

28 The Claimant was at all times employed as a Reward Level B ('RLB') PA. The grade immediately above her was Reward Level C ('RLC').

29 In the usual way, the Respondent's PAs were assigned to particular senior executives, managing their diaries and performing a wide range of administrative services. The duties of RLC PAs extended in some respects to higher level responsibilities than those of RLB PAs. RLC PAs also tended to support Directors, or at least more senior executives than their RLB colleagues.

Facts relevant to the direct discrimination claims

[2] Some findings on key factual issues are reserved to the 'Secondary Findings and Conclusions' section further below.

30 In this section we make findings by reference to the appended list of issues (hereafter, 'LOI') adopting the paragraph numbers there used.

31 Under para 3.2.1 the Claimant complained of being excluded from work social gatherings 'for the whole of her period of employment'. When the allegation was tested in cross-examination, she appeared to limit it to two occasions, one in 2016 and one in 2022. At all events, although she maintained the complaint as a valid account of her 'lived experience', she did not identify any other event besides these. As to the former, she was not able to point to any documentary evidence. Her 'chronology' document (included in the bundle) makes no mention of it. As to the latter, we find that a drinks event was held in or about May 2022 to mark the forthcoming wedding of another PA, Danielle Scholz, and that the Claimant was not among those invited.

32 Para 3.2.2 makes a series of complaints about 'failure to promote' the Claimant on various occasions between 2015 and 2019. When these were explored in evidence, it was established that they were about 'failures' to allow her the opportunity to increase her experience by working, in her current grade, for different senior managers in different departments. They were not about formal recruitment exercises. Specifically, she accepted that none of her complaints under this head related to unsuccessful applications for promotion from her RLB grade to RLC, or any other higher grade. Her complaint was about senior managers, in particular her line manager Ms Chapman, obstructing her hopes to develop her experience by working with different senior managers. She told us, and we accept, that such opportunities were often not advertised. She found out about one, a chance to work for the Head of Clothing and Home, seemingly in 2019, and put herself forward but was unsuccessful. She volunteered to us that this outcome was explained by the fact that PAs working in that Department 'had the upper hand'. The evidence relating to para 3.2.2 was entirely unspecific save for one reference to a hearsay report of Ms Chapman being overheard warning a particular senior manager, Mr Adcock, that taking the Claimant on as his PA would be 'the worst mistake of his life'. She did not complain that she was ever prevented from applying for any role or opportunity.

33 Under para 3.2.3, the Claimant complained that she had been denied pay increases in line with those of other PAs throughout her employment. We find that the evidence does not substantiate this complaint. She received regular pay increases as did her white peers. We see no history of different treatment in relation to pay rises. Although not strictly relevant to this complaint, we note that pay *levels* (as opposed to increases) differed between the RLB and RLC cohorts and within each cohort. It was not uncommon for a PA to ask for a pay adjustment on the basis of information acquired about the salary being paid to a peer. The Claimant made such a request in 2019, having learnt of the remuneration enjoyed by a long-serving white colleague. The request was granted and the two salaries equalised. After the colleague left, the Claimant was for a significant period the highest-paid RLB grade PA. A pay review in July 2023 established that she was being paid at the very top of the RLB pay range and more than a number of white colleagues.

34 By para 3.2.4, the Claimant complained of her salary being reduced during lockdown. She was placed on furlough between about April and September 2020.

The evidence given on behalf of the Respondent was that another RLB PA, who was white, was placed on furlough at that time, and that RLC PAs, including one who was black, were retained throughout. We do not understand the Claimant to challenge that evidence, and we accept it. Before us, the Claimant attempted to raise a new complaint, namely that a white colleague returned from furlough before she did. This was not part of her case before the Tribunal and the Respondent had no notice of it. We considered that it would be unfair to engage with it and decline to make any finding on that matter.

35 Para 3.2.5 raises a complaint that the Claimant's name was excluded from a departmental structure chart in 2019. As was not disputed, a chart, which seems to have been created in or about February 2019, showed 'PA – TBC' where the Claimant's name should have appeared. Her case before us appeared to be that the omission was deliberate and probably perpetrated at the instigation of a senior manager, Mr Wilgoss, and/or 'HR', seemingly to disadvantage her. She made the point that she was the only black PA in the Food/Tech Department and that 'TBC' made no sense because there was no vacancy. She accepted in evidence that her name had appeared in structure charts created before and after 2019.

36 At para 3.2.6, the Claimant raises a complaint about an alleged initiative of the Respondent to recruit PAs from diverse ethnic backgrounds and asserts that she was asked to greet new appointees because she was black. She told us in evidence that the initiative was given a secret code name of 'Project Coffee', which she regarded as a racist trope. The Respondent's case was that, in early 2019, it launched plans for a reorganisation under the code name 'Project Coffee'. The reorganisation had nothing to do with the recruitment of PAs. At around the same time, several newly-appointed PAs, at least one of whom was black, were appointed and the Claimant was asked to greet them when they arrived at the Respondent's premises. The Respondent's late disclosure included a document apparently relating to the proposed reorganisation. At the top were the words 'Project Coffee'. Before us, the Claimant suggested that the document had been cynically created by or on behalf of the Respondent at the last minute to defeat her claim. We resolve these conflicts in our secondary findings below.

37 Para 3.2.7 accuses the Respondent of failing to give due consideration to the Claimant's complaint of discrimination raised in November 2019. It is not in question that she raised such a complaint at that time. Under cross-examination she accepted that Ms Mallon had encouraged her to pursue her concern, by formal or informal means, but she had chosen not to. She said that she had feared that doing so might leave her feeling unsupported and that she had felt a need for stability. Asked what, in the circumstances, the Respondent ought to have done she merely replied that she felt she had not been helped.

38 Para 3.2.8 raises a complaint about an alleged failure in October 2021 to allow the Claimant to work flexible hours for personal and family reasons. The facts are straightforward. She had an exchange of correspondence with Ms Chapman in which she proposed a temporary adjustment of her working schedule and, following discussion, suitable arrangements were agreed.

39 Under para 3.2.9, the Claimant complains of an alleged failure to permit her to work as PA to Mr Wes Taylor, a senior manager (who happens to be black), in June 2022, to cover the incumbent PA's maternity leave. In evidence she agreed that she had applied for the maternity cover opportunity and that her application had been unsuccessful. She told us that, at the time, Mr Taylor had 'hinted' that he would have wished to appoint her but had not been able to do so, apparently because Ms Chapman (with assistance from HR) had controlled or manipulated the decision, being determined not to sanction her appointment. There was no reference to this complaint in her 'chronology' document or in her hand-written notes first disclosed during the hearing. We offer our assessment of this area of disagreement in our secondary findings below.

40 Para 3.2.10 makes a complaint that the Claimant was excluded from a 'remote' meeting in April or May 2022 to introduce Mr Clappen, a new senior manager. She told us in evidence that Ms Chapman had told her that she should not join the call. We accept that evidence, having been offered no reason to do otherwise.

41 The Claimant complains at para 3.2.11 that the Respondent wrongfully 'failed' to offer her the post of PA to Mr Wright in May 2022. The evidence was ultimately uncontroversial, at least on most matters. As Ms Mallon explained, there was a vacancy for the role of RLC PA to Mr Wright but the decision was taken (seemingly by him) to accede to the wish of Ms Scholz, a PA who had been promoted to RLC, to move within her grade. The effect of this would be to leave the position of RLC PA to Mr Clappen vacant and, with the agreement of Mr Wright and Mr Clappen, Ms Mallon then invited the Claimant and another RLB PA, Ms Chanda, who is also black, to apply. Both did so and Ms Chanda was appointed. The Claimant declined the opportunity to be provided with feedback from Mr Wright about the decision in favour of Ms Scholz.

42 Para 3.2.12 repeats an element of 3.2.1 and all relevant findings have already been made above.

43 The complaint at 3.2.13 returns to the ground covered by 3.2.11, with a specific focus on the outcome of the competition for the vacancy for PA to Mr Clappen. All necessary findings are already made above.

44 Under para 3.2.14, the Claimant complains about the dismissal of her allegation in June 2023 of pay inequality as between her and white PAs. The July 2023 pay review has already been referred to (in relation to LOI, para 3.2.3) and it is not necessary to make any other finding here.

45 Para 3.2.15 alleges a 'failure' to ask the Claimant to support Mr Clappen as his PA on a temporary basis in January/February 2023. The Claimant told us that the work for Mr Clappen would have added to her existing duties, not replaced them. She asked Ms Chapman in an email why she had not been put forward. It seems that she did not get a written reply but she told us in evidence, and we accept, that Ms Chapman told her in an oral exchange that she was too busy to take on extra responsibilities.

46 By para 3.2.16, a complaint is made about the 'failure' in September 2023 to offer the Claimant an interview for a vacancy at Executive Assistant level. It is common ground that she applied for the role and was not interviewed. She received feedback that the hiring manager had taken forward applications from candidates with more relevant experience than her in the areas of Corporate Affairs and Project Management. In cross-examination, she accepted that Executive Assistant sat at a significantly higher level in the organisation than her grade of RLB PA.

47 Our primary findings relevant to allegations of discrimination in the redundancy process (LOI, paras 3.2,17, 3.2.18, 3.2.21 and 3.2.22) are collected under the 'Unfair dismissal' heading below.

48 Under paras 3.2.19 and 3.2.20 the Claimant alleges discrimination in respect of her first-instance grievance and grievance appeal. Although it was not entirely clear from her evidence, we interpret her complaint as relating to conduct and outcomes at both stages.

49 On 2 October 2023 the Claimant wrote to the Respondent's Chief Executive Officer making numerous complaints of unfair and discriminatory treatment, all or the great majority of which are replicated in her claims before the Tribunal. With her agreement, the matter was referred to Ms Sarah Findlater, HR Director, who had an informal conversation with her on 5 October 2023. Again by agreement, the case was then passed to Ms Lowe (already mentioned, a witness before us) to deal with as a formal grievance.

50 Ms Lowe held grievance meetings with the Claimant on 13 October 2023, which lasted over two hours, and on 16 October 2023, which was shorter. The Claimant was given the opportunity to be accompanied at the meetings, both of which were carefully noted.

51 Ms Lowe also conducted interviews with Ms Mallon and Ms Buxton (already mentioned and witnesses before us), Ms Chapman, Ms Scholz, Ms Chanda, (all already mentioned), Ms Jodie Lane and Mr William Watts (see below, in connection with the redundancy process) and several other witnesses who, she believed, might be able to offer useful information relating to discrete aspects of the grievance.

52 Following an email exchange with the Claimant on 26 October 2023, Ms Lowe arranged her analysis of the grievance under nine headings: relationship with Paul Willgoss, a senior manager (this dated back to 2013); pay; relationship with Ms Chapman; furlough; redundancy selection; an alleged confidentiality breach involving HR; denial of career development opportunities; being held back from progression (especially by Ms Chapman/HR); racial bias, discrimination, gaslighting and marginalisation.

53 On 14 November 2023 Ms Lowe wrote a long letter to the Claimant (more than 12 pages in small font) to advise her of the outcome of her grievance investigation. She was unable to make any finding on the first head, because the allegations were so old and Mr Willgoss and other potentially relevant witnesses had left the business and so not contributed to the investigation. On pay, she found that the Claimant was paid a location allowance and basic salary until 2015, when the

two elements were merged into a single payment. She rejected the assertions of discriminatory pay differences as inconsistent with the records. On Ms Chapman, she made numerous evidence-based findings of favourable treatment and friendly messages, which she found incompatible with the Claimant's picture of her as a hostile and malign figure bent on doing her harm. She found no evidence of discrimination in relation to furlough decisions. On the redundancy selection exercise, she found that the records and evidence of Ms Lane and Mr Watts were consistent in showing that the Claimant had performed weakly at interview and the scores awarded to her were fair. The complaint about a confidentiality breach failed, Ms Lowe noting that the Claimant's recollection of material events was strongly challenged by two witnesses and (by implication at least) preferring their account. She also found no substance in any of the last three heads (denial of progression, 'holding back' and discrimination, 'gaslighting' etc). Finally, she addressed some miscellaneous points, including the Claimant's perception of the nature and purpose of 'Project Coffee', which she found quite mistaken (see further below). In the result, Ms Lowe rejected the grievance. She also advised the Claimant of her right of appeal.

54 The Claimant exercised her right of appeal, raising numerous grounds. Ms Jamieson (already mentioned and a witness before us) was assigned to consider the appeal. She held meetings with the Claimant on 16, 23 and 31 January 2024, occupying about three hours in total. The meetings were carefully noted.

55 In a detailed letter of 5 March 2024 (four pages, small font), Ms Jamieson delivered her decision on the grievance appeal. She began by stressing (as she had in the meetings) that her function under the Respondent's procedures was to review Ms Lowe's decision, taking account of any fresh information presented. It was not to re-hear the grievance from scratch. Accordingly, in so far as the Claimant sought only to reargue her case, with no new material raised, she dismissed the appeal at once. She then turned to the few heads of complaint that remained. On the relationship with Ms Chapman, she reviewed a new piece of evidence but explained that it did not warrant her coming to a new conclusion on a question about Ms Chapman deleting emails praising the Claimant's performance. She also mentioned another group of messages to which the Claimant had referred, but said that since she (the Claimant) declined to produce them, she could make no finding on them. On furlough, Ms Jamieson considered the Claimant's complaint of lack of contact from Ms Chapman but found that the matter dated back so far and the evidence was of such poor quality (the HR officer with responsibility had left) that reliable findings could not be made, although she did note that Ms Chapman was clear that *some* contact had been made during the Claimant's absence. On the redundancy process, Ms Jamieson judged the Claimant's (new) complaint of being put under pressure to take redundancy unfounded. Having explored that matter with Ms Chapman and the other individual complained about (Ms Debbie Barnes, Head of Convenience and Bakery), she considered that both had merely offered suitable support. And on denial of career progression, Ms Jamieson investigated the assertion that two vacancies had arisen during the redundancy process but been suppressed, but found nothing in the point: one was not a vacancy at all, just a narrowing of the field when one of the five RLB PAs at risk resigned; the other was the Executive Assistant vacancy, for which the Claimant could, and did, apply. On these grounds, Ms Jamieson dismissed the appeal.

56 The complaint under para 3.2.23 falls away because the Claimant acknowledges that she did not pursue any appeal against her dismissal.

Further facts relevant to the unfair dismissal claim and LOI, paras 3.2.17, 3.2.18, 3.2.21 and 3.2.22

57 In August 2023 the PA function within the Respondent's Foods Group was reviewed and a plan conceived to reorganise it to create a leaner and more efficient model to be achieved by deleting the six RLB posts and creating two new posts at RLC level.

58 The six RLB post-holders accordingly formed the pool for selection. Four were white and two, the Claimant and Ms Ofoegbu, black.

59 The plans were shared with the affected six PAs in a briefing on 30 August 2023.

60 A full process of consultation followed, in which the rationale of the reorganisation was elaborated, the option of voluntary redundancy (and consequential compensation) explained, the possibility of redeployment canvassed (it was not in question that the Claimant was well aware of where to look for internal vacancies) and the redundancy selection methodology outlined. Mr Basey chaired three consultation meetings with the Claimant, on 1 and 15 September and 17 October 2023. We regard the Respondent's notes as reliable records of what was said.

61 The Claimant complained that Ms Chapman and/or Ms Barnes attempted during the consultation process to 'coerce' her into taking voluntary redundancy. We do not accept that they did so. We share the view of Ms Jamieson that they did no more than offer support and, in doing so, acknowledged the stress which she and those close to her were inevitably experiencing. But, given her evident mistrust of Ms Chapman in particular, we acknowledge that the Claimant may have *perceived* that she was attempting to manoeuvre her towards leaving the organisation.

62 The redundancy scheme provided for selection based on an interview designed to assess eight attributes: personal responsibility; ability to solve complex problems; service and willingness to help others; commercial acumen; persistence; collaboration; credibility; and inclusion. Scores were awarded in a range from C- to A+, which translated numerically to 1-10 so that the maximum total theoretical mark was 80. It was not suggested that the objectives underlying the selection process were inappropriate or defective.

63 The field was reduced to five as one candidate elected to take voluntary retirement.

64 Following the interviews, the Claimant stood in fifth place, with a score of 33. Miss Ofoegbu stood fourth. The gap between her and the top three was substantial.

65 In the event, the third-placed candidate was retained because an RLC PA gave notice without warning, creating a further vacancy at that level. Miss Ofoegbu was also retained, but only on a short-term basis, covering a member of staff on maternity leave.

66 At the third consultation meeting the Claimant was given notice of dismissal taking effect on 28 October 2023. She was advised of her right of appeal but did not exercise it.

67 The Claimant received brief feedback on her interview performance which acknowledged that she had spoken confidently about her experience in PA roles but criticised a lack of detail in her answers and a stated failure to provide examples to identify relevant skills in the workplace setting. She was dismissive of the feedback and Ms Buxton (already mentioned and a witness before us) reviewed it against the scores awarded and the interview notes. Having done so, she found the materials consistent and fair. She also advised the Claimant that she was at liberty to approach the interviewers for fuller feedback. She did not do so.

68 The Claimant appeared to complain that the Respondent deliberately kept from her during the consultation period the fact that a vacancy had arisen for a Director's Secretary in the Finance, Clothing & Home Department. It seems that this vacancy was advertised on LinkedIn, but not on the company's website. At all events, when this was tested in her evidence the Claimant accepted that (although she said otherwise to Mr Basey at the third consultation meeting) she *had* by then (a week before her dismissal) become aware of the opportunity but decided not to apply because she felt that the company 'wanted her out' and she had 'given up'.

Further facts relevant to the unpaid wages claim

69 The Claimant's contract of employment on appointment, a copy of which is before us, provided that she was entitled to receive a salary of £35,000 annually, inclusive of a location premium of £3,500. Her case before us was that for the years 2014 to 2017 she was paid only £31,500. She told us that she did not notice the discrepancy at the time.

70 The Respondent does not hold copy pay slips going back as far as 2017. But it has produced: (a) a company document purporting to show the Claimant's total pay from 2014 to 2023, which appears to be consistent with its case, and (b) a company consultation document setting out what were presented as proposed pay changes to take effect in April 2017 including the 'combination of current location premiums into pay for all UK retail management (reward level B and above) and for UK office employees.'

71 The Claimant first raised a concern that she might have been underpaid in September 2023.

72 The matter was referred to the Respondent's payroll department, which reported that, between 2014 and 2017, basic pay and location premium were shown separately, in different places, on the internal HR system, but the Claimant was always duly paid for the two elements together.

73 The Claimant was also not in a position to produce documentary evidence (such as salary statements, tax records or banking documents) to substantiate her case as to the overall pay credited to her account over the three relevant years.

74 Our finding on the core issue as to whether, in fact, the Claimant was underpaid between 2014 and 2017 is set out under the appropriate heading below.

Secondary Findings, Analysis and Conclusions

Rationale for our primary and secondary findings

75 In arriving at our primary findings we have had careful regard to all the evidence put before us. We have considered the coherence, internal consistency and general plausibility of the witness evidence and have attached particular importance to contemporary documents.

76 We consider that all witnesses before us understood and respected their obligation to give us a frank and accurate account of events as they recall them. The Respondent's witnesses did not bring to the case the weight of emotional investment which was evident on the Claimant's side. In consequence, there were parts of the dispute in which they had the advantage of demonstrating a level of detachment which she, understandably, could not match. Unfortunately for her, the consequence was that, in places, she found herself taking positions which seemed to lose touch with reality and common sense. Her stance on 'Project Coffee', her claim to have been singled out for underpayment of salary immediately after appointment by £3,500 annually for three years and her apparent contention that the redundancy exercise was simply a contrivance to get rid of her on racial grounds, are the most obvious examples. But we stress that we have been most careful not to make the basic mistake of reasoning (consciously or unconsciously) that the fact of her taking an unsustainable position on some points means that we should disregard her case on others.

Direct race discrimination - detrimental treatment?

77 The generalised complaint of exclusion from social gatherings (paras 3.2.1 and 2.2.12) is not established on the facts. We do find on balance that the Claimant was not invited to the drinks party for Danielle Scholz in or around May 2022. The evidence was not sufficient to show whether there was any reason to regard that fact as odd or calling for explanation. The Claimant told us that she was the only other PA in the Department but we were given no reason for thinking that this made her absence from the list of invitees remarkable or strange. The evidence does not establish who decided upon the list. The burden of her case was that she was subjected to disadvantageous treatment principally by Ms Chapman and/or 'HR'. Sometimes she just blamed 'the business'. There was no trend towards alleging discrimination on the part of her peers. Our natural assumption would be that the decision whether or not to invite her to a party for Ms Scholz would have rested wholly or mainly with that individual. All in all, we do not consider that the low bar of establishing a detriment is cleared.

78 The complaint of 'failure to promote' (para 3.2.2) fails on our primary findings. The allegations made under this head did not concern promotion opportunities at all. They did relate to occasional opportunities to gain relevant experience by working for different senior managers. That is a quite separate matter not comprehended by para 3,2,2.[3] No detriment in the form of failure to promote is shown.

79 On our primary findings in relation to pay increases (para 3.2.3), no arguable detriment is established.

80 Para 3.2.4 (being placed on furlough) does, we think, identify an arguable detriment.

81 We do not accept that any actionable detriment is made out under para 3.2.5. The Claimant's omission from the organisation chart in 2019 could only sensibly have been seen by any informed and reasonable observer as an obvious error. We do not recall the Claimant claiming to have been caused any distress or embarrassment.

82 We regret that the complaint under para 3.2.6 was pursued. Unfortunately, the Claimant has become unshakeably convinced by her surprising theory that there was a secret programme called 'Project Coffee' designed to make the cohort of PAs more racially representative of the world outside the Respondent's organisation. If she was right, it would be difficult to see how its existence would constitute a detriment to the Claimant, save perhaps in so far as its name might give offence. But in any event, we are quite satisfied that there was no such programme. That the Claimant should pursue the matter even after being shown a document which clearly evidences the fact that Project Coffee refers to a proposal for a structural reorganisation, resorting to the wild allegation that the document was manufactured, reflects poorly on her judgement. Nor was there any detriment in asking her to welcome new colleagues to the organisation. That was a task which fell naturally within her remit and there could be no objection to being asked to perform it.

83 Likewise, no possible detriment is found under para 3.2.7. On the Claimant's own case, she declined to take her complaint of discrimination forward. In those circumstances, the Respondent subjected her to no detriment by taking no further action on it.

84 Para 3.2.8 also discloses no arguable detriment. There was a conversation about flexible working initiated by the Claimant, which resulted in a sensible compromise upon which she and Ms Chapman agreed. So far from disadvantaging the Claimant, the compromise was to her advantage.

85 It seems to us questionable whether para 3.2.9 (denial of the opportunity to work for Mr Taylor to cover maternity leave) discloses any arguable detriment unless the Tribunal is persuaded by the Claimant's theory that, contrary to appearances, the decision was manipulated by Ms Chapman and/or 'HR' and not taken by Mr Taylor himself. We have been shown no reason for inferring that (a) Mr Taylor, a senior manager, would have been so supine as to allow himself to be manipulated

[3] But see further below, under paras 3.2.9, 3,2.11, 3.2.13 and 3.2.15

as alleged; or (b) that Ms Chapman and/or 'HR' would have had the interest, time and energy to engage in disingenuous manoeuvres of the sort alleged. We decline to draw any such inferences. Accordingly, any detriment consisted simply of the disappointment which the Claimant naturally experienced as a consequence of her approach being declined in favour of a fellow-employee. On balance, although on the evidence presented there is no reason to regard the decision to appoint her colleague over her as unfair in any way, we are just persuaded that the unfavourable outcome was in itself sufficient to constitute an arguable detriment.

86 We will assume in the Claimant's favour that a detriment is established under para 3.2.10 on the basis that she would have enjoyed attending the meeting to welcome Mr Clappen.

87 We will proceed on the basis of a similar assumption in relation to paras 3.2.11 and 3.2.13. That is to say, we will treat the disappointment which the Claimant experienced in being denied the opportunity to work for Mr Wright and in losing the competition with Ms Chanda for the chance to work for Mr Clappen as constituting arguable detriments.

88 There is no arguable detriment in the dismissal of the pay discrimination complaint (para 3.2.14). The Respondent's analysis and conclusions were, in our view, not merely permissible but correct.

89 We find an arguable detriment is established under para 3.2.15 (denial of the opportunity to work for Mr Clappen). Our reasoning corresponds with that applied to paras 3.2.9, 3.2.11 and 3.2.13.

90 The complaint under 3.2.16 does not identify any arguable detriment. The Claimant applied for a role (as Executive Assistant) which sat well above her current grade and, not surprisingly, she was not invited to interview. That outcome may have been disappointing, but she had no reason to feel aggrieved about it. If she really did harbour such a sentiment, it was not justified.

91 We find no arguable detriment in para 3.2.17 (placing the Claimant in the redundancy pool). Once the decision was taken to delete the grade which she and her five peers occupied and to create two vacancies at the next grade up, placing the affected six employees in a redundancy pool became almost inevitable and, on any view, unobjectionable. If the Claimant is aggrieved by the relevant treatment, she is not justified in that view.

92 Nor does the Claimant establish a detriment under para 3.2.18. On our primary findings there was no attempt to coerce her to opt for voluntary redundancy and no treatment to which she was entitled to take exception.

93 No detriment is shown in relation to the grievance process at first instance or on appeal (paras 3.2.19 and 3.2.20). The Claimant's concerns were carefully examined and fair and reasonable findings and conclusions were reached at both stages. The fact that she disagrees with the outcomes does not entitle her to characterise them as detrimental.

94 We are prepared to treat the Claimant's dismissal on the ground of redundancy (para 3.2.21) as a detriment. Although we have found that the reason given for dismissal was valid and the process and outcome were fair (see further below) it seems to us right to treat the result, which undoubtedly put the Claimant at a disadvantage, as constituting a detriment.

95 We find no detriment under para 3.2.22 (failing to notify the Claimant of vacancies for alternative employment). On our primary findings the Respondent ensured that she was aware of where to look for internal vacancies. As to the one position that seems not to have been advertised on the website, we have recorded that she was aware of it and elected not to apply. If there was a culpable omission (the evidence did not help us one way or the other), it did not cause her any disadvantage.

Direct race discrimination – treatment 'because of' the Claimant's race?

96 Our analysis so far leaves seven complaints of direct race discrimination standing: those under LOI, paras 3.2.4, 3.2.9, 3.2.10, 3.2.11, 3.2.13, 3.2.15 and 3.2.21. The balance fall away for want of any detriment being shown. For completeness, however, we will, where possible, address the question whether treatment was 'because of' race by reference also to allegations which we have found not to disclose an arguable detriment.

97 As to para 3.2.2 we have found no arguable detriment in the form of a failure to promote the Claimant and, on the face of it, the question of a discriminatory motivation does not arise. But in case we are reading LOI para 3.2.2 too narrowly and the complaint is properly seen as of denial of the chance to gain experience in short-term placements with different senior managers, we place on record that we see no basis for thinking that any lost opportunity resulted from any conscious or unconscious wish to disadvantage the Claimant (because of her race or for any other reason). Rather, it stemmed from the fact that ad hoc and temporary opportunities of this kind were often not advertised. Moreover, the Claimant's own evidence in relation to the 2019 episode is telling: on her own case, those who profited were the PAs working within the department in which the opportunity arose. The location gave them 'the upper hand'. This argues *against* the notion that race influenced events.

98 Likewise, we have found no detriment under para 3.2.3 but in any event there is simply nothing in the evidence pointing to any pattern of race discrimination in respect of pay or any other ground for supposing that the Claimant was disadvantaged in relation to pay because of her race.

99 Under para 3.2.4 we find nothing pointing to race as a factor behind the decision to place the Claimant on furlough: of a pool of four, two were furloughed and two not. Each subgroup consisted of a white PA and a black PA.

100 If we are mistaken in finding no detriment under para 3.2.5 (the Claimant's omission from the organisation chart), we find in any event nothing pointing to a discriminatory motivation. Simple error is surely the obvious explanation.

101 The complaint under para 3.2.6 has failed utterly and no possible detriment is established. But for good measure we find that there is no possible ground for suggesting any element of discrimination in the decision to ask the Claimant to welcome the new appointees.

102 The same reasoning applies to para 3.2.7. The Claimant having declined to pursue her complaint of discrimination, the Respondent was not in a position to take any action on it. There is no possible basis for supposing that an employee of different race in like circumstances would have been treated differently.

103 Likewise, we have found no arguable detriment in relation to the agreed arrangements arising out of the Claimant's request for flexible working (para 3.2.8) but in any event there is simply nothing pointing to the Claimant's race having played any part in the discussion with Ms Chapman or its outcome.

104 As to para 3.2.9 (denial of the opportunity to work for Mr Taylor), we are confident in any event that there is no rational basis for inferring that that decision was materially influenced in any way by the fact of the Claimant being black. The decision-maker himself was black. The Claimant did not suggest that, if he took the decision of his own free will, he was nonetheless disposed to, and did, discriminate against her on the ground of her race. And we have rejected the unsubstantiated theory that his will was overborne by Ms Chapman and/or 'HR'. More generally, our remarks above in relation to para 3.2.2 are repeated.

105 On a fine balance, we have assumed an arguable detriment under para 3.2.10 (exclusion from the meeting to welcome Mr Clappen). But we see no evidential basis for a theory that it was motivated by any consideration of race. On the material which the Claimant put before us, there is no contextual support for the bald allegation of discrimination. It is not, for example, suggested that she was given a dubious or implausible reason not to attend. There could have been any number of good reasons.

106 Parallel reasoning to that offered in relation to para 3.2.9 applies to paras 3.2.11 and 3.2.13. A rational and entirely plausible explanation is given for the decision to allocate Ms Scholz, by then an RLC PA, to Mr Wright. And there is no reason to regard the conduct or outcome of the competition between the Claimant and Ms Chanda, another black PA, as having been in any way influenced by considerations of race. No evidence put before the Tribunal points to any unfairness in the decision to favour Ms Chanda over the Claimant. The interview was conducted by Ms McKenzie, also described in the evidence before us as black. Generally, we regret the Claimant's apparent suggestion that the verdict was somehow engineered to go in favour of Ms Chanda rather than given to her on merit, which strikes us as unwarranted and offensive.

107 If there was any defect in the Respondent's investigation into the Claimant's complaint of pay discrimination (para 3.2.14), either in the conduct of the investigation or in its outcome, we find in any event, no basis for inferring that any such defect was the result of some discriminatory motivation. Again, there is simply no evidential foundation for such a theory.

108 Under para 3.2.15, we find, again, no material suggestive of any racial component in the decision complained of. On the Claimant's own case, she was given a rational explanation (namely, that she was too busy to take on extra duties with Mr Clappen). We see no reason to regard that explanation with suspicion, much less to infer an underlying racial motivation.

109 There is a also no possible reason to infer discrimination underlying the unremarkable decision not to invite the Claimant to interview for the post of Executive Assistant (para 3.2.16).

110 It is convenient to consider the redundancy-related complaints (3.2.17, 3.2.18, 3.2.21 and 3.2.22) together. As we have noted, an arguable detriment is established only in relation to 3.2.21 (the outcome, namely dismissal). Here the Claimant has at least some material to work with. The result of the redundancy process was that the two black PAs were selected for redundancy and the three (remaining) white PAs were promoted. But that outcome is fully explained by the scoring process, which placed the Claimant and her black colleague a long way below the other candidates. Her case was that the scoring was manipulated in order to get her out and that the manipulation was racially motivated. But we have seen no evidential basis for that very serious assertion. The Claimant's second-hand, hearsay account of one of the other candidates stating that she had performed very badly in the selection process (an account strongly challenged by that individual in evidence provided to Ms Lowe) carries little weight. Moreover, the Claimant's case in relation to that candidate contradicted her own claim, in that it became an allegation that the scores were manipulated not because of race, but because of the desire of the CEO to please his driver (the father of the relevant candidate). We have looked hard for any material which could support a theory that the scores were manipulated on racial grounds, but have found none. The evidence on behalf of the Respondent provides a rational and consistent explanation for the scores. The Claimant's case in relation to the redundancy begins and ends with a difference in race and a difference in treatment. As the elementary case-law shows, that is not enough. The necessary 'something else' is conspicuously absent.

111 We have found that the claims relating to the grievance process at both stages (paras 3.2.19 and 3.2.20) disclose no arguable detriment but in any event we find that there is no possible reason to infer that the way in which the grievance processes were conducted was in any way influenced by considerations of race.

112 Our review of the individual allegations of direct discrimination has resulted in findings that nothing suggests race as a motivation for, or material influence behind, any of them. We have then stepped back to consider the detriment claims together, conscious of the risk that a fragmented, one-by-one approach may deny the observer a proper appreciation of the 'big picture'. Our analysis is unchanged. In short, the evidence, however viewed, does not lend material support to the theory of discrimination and, in some respects, the Claimant's own case argues against it.

Direct race discrimination – summary

113 For the reasons stated, most complaints fall because they rest on acts or events which do not clear the low bar of constituting arguable detriments and, in any

event, there is no sustainable basis for alleging race discrimination in relation to any detriment or alleged detriment. It follows that no discrimination claims is upheld.

114 In arriving at our findings and conclusions we have not felt the need to apply the burden of proof provisions (the 2010 Act, s136) since the evidence has been sufficient to enable us to make clear findings. But had those provisions been in play, the result would have been the same. We would have found that no *prima facie* case of discrimination was made out and that, even if it had been, the Respondent would have amply discharged the burden of showing that it had not discriminated.

Direct race discrimination - time

115 We refer to the judgment, para (5). The discrimination claims which we have addressed were mostly brought outside the primary three-month limitation period under the 2020 Act, s123(1). This applies to all except those itemised in LOI, paras 3.2.16-3.2.22 inclusive. Naturally enough, the Claimant relied on s123(3)(a) to argue that her complaint was about 'conduct extending over a period' and that accordingly time ran from the last, which was brought within the three months. But we have now found that no claim is well-founded. There was no relevant (*ie* unlawful) conduct. So s123(3)(a) is inapplicable. That leaves the discretion under s123(1) to substitute a longer period than the 'default' three months, but it would plainly be idle even to consider exercising that power to bring within time claims which have already failed on their merits. It follows that the late claims fall outside the Tribunal's jurisdiction.

Unfair dismissal - reason for dismissal?

116 The fact of dismissal is agreed. Has the Respondent shown that the true reason for dismissal was that the Claimant was redundant? Clearly, the Claimant was redundant, as were the other five candidates in the pool. The redundancy arose from the Respondent's decision to delete the RLB PA grade, which resulted in a diminution in the Respondent's requirement for employees to carry out work of a particular kind, namely RLB PA work (ERA, s139(1)(b)(i)). In so far as she suggested that the redundancy exercise was a 'sham' or a device concocted for the purpose of getting rid of her (her position on that issue seemed ambiguous to us), we entirely reject the argument.

117 Was the Claimant dismissed because she was redundant? We find that redundancy was indeed the true reason. The Respondent applied the scoring system, which left her without one of the available RLC PA posts. Her employment was ended because her position had been deleted and the Respondent was not in a position to offer her any other.

Unfair dismissal – reasonableness of dismissal?

118 We have reminded ourselves that the statutory test of fairness under the 1996 Act, s98(4) must be approached by applying the 'band of reasonable responses' test. As to substance, dismissal was plainly a reasonable (or permissible) option. The Claimant's job had gone. She had elected not to apply for the secretary role (whether it would have been suitable or not). It was not suggested that the Respondent overlooked any other alternative to dismissal.

119 Was a fair (or permissible) process applied? Again, we think that the answer is clear. It was obviously appropriate (and certainly permissible) to place the six RLB PAs in the pool for selection and to confine the pool to them. Relevant information was shared with all candidates at risk, fully and in good time. A genuine, three-stage process of consultation was held. Suitable steps were taken to ensure that candidates were aware of their options (including that of taking voluntary redundancy) and had access to necessary information concerning alternative employment possibilities. The selection criteria were reasonable (or permissible) and we are satisfied that they were fairly applied. We find that there is no evidence to make good the claim that the redundancy was to any extent influenced by considerations of race or any other irrelevant or impermissible factor.

Unfair dismissal - summary

120 For the reasons given, we are satisfied that the Claimant was dismissed because she was redundant and that the Respondent acted reasonably (permissibly) in treating the reason as sufficient. Accordingly, the unfair dismissal claim is not well-founded.

Unauthorised deductions from wages/breach of contract

121 In the Claimant's favour, we treat this complaint as falling under the Tribunal's contractual jurisdiction. This spares her the task of dealing with the Respondent's defences based on the delay in bringing the claim.

122 That said, the claim (however put) fails on its merits in any event, because we are quite satisfied that it is much more likely than not that the Claimant was not underpaid as alleged or at all. Such contemporary documentation as there is is consistent with the Respondent's case. None corroborates the Claimant's. And we find it entirely implausible that a 10% underpayment of her salary would have gone unnoticed (by anyone) for three years.

Outcome

123 For the reasons given, all claims are dismissed.

Employment Judge Snelson

_____

Date: 13 December 2025

Judgment entered in the Register and copies sent to the parties on 17 December 2025

…...for Office of the Tribunals

APPENDIX

AGREED LIST OF ISSUES

Time limits

1.1. Were the discrimination/harassment complaints made within the time limit in section 123 of the Equality Act 2010? The Tribunal will decide:

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

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

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

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

1.1.4.1. Why were the complaints not made to the Tribunal in time?

1.1.4.2. In any event, is it just and equitable in all the circumstances to extend time?

1.2. Was the automatic unfair dismissal / unauthorised deductions complaint made within the time limit in the Employment Rights Act 1996]? The Tribunal will decide:

1.2.1. Was the claim made to the Tribunal within three months (plus early conciliation extension) of the effective date of termination / act complained of / date of payment of the wages from which the deduction was made etc?

1.2.2. If not, was there a series of deductions and was the claim made to the Tribunal within three months (plus early conciliation extension) of the last one?

1.2.3. If not, was it reasonably practicable for the claim to be made to the Tribunal within the time limit?

1.2.4. If it was not reasonably practicable for the claim to be made to the Tribunal within the time limit, was it made within a reasonable period?

2. Unfair dismissal

2.1. What was the reason or principal reason for dismissal? The respondent says the reason was redundancy. The claimant says she was dismissed because she is black.

2.2. If the reason was redundancy, did the respondent act reasonably or unreasonably in all the circumstances, including the respondent's size and administrative resources, in treating that as a sufficient reason to dismiss the claimant? The Tribunal's determination whether the dismissal was fair or unfair must be in accordance with equity and the substantial merits of the case. It will usually decide, in particular, whether:

2.2.1. The respondent adequately warned and consulted the claimant;

2.2.2. The respondent adopted a reasonable selection decision, including its approach to a selection pool;

2.2.3. The respondent took reasonable steps to find the claimant suitable alternative employment;

2.2.4. Dismissal was within the range of reasonable responses.

…

3. Direct race discrimination (Equality Act 2010 section 13)

3.1. The claimant identifies as being black.

3.2. Did the respondent do the following things:

3.2.1. excluding the claimant from work social gatherings such as Christmas parties for the whole of her period of employment. Olivia Harry and Danielle Schlosz are both white PA's who were always invited. The last time she was excluded was in May 2022 (see 3.2.12 below);

3.2.2. failing to promote the claimant. In 2015, 2016 and 2017, she was not promoted to the role PA to Paul Willgross; in 2018 she was not promoted to role of PA to Andy Adcock (director of food); in 2018 she was not promoted to role of PA to Jill Mac-Donald; in 2019, she was not promoted to role of PA to Head of clothing and home;

3.2.3. failing to increase the claimant's salary in line with other PA's; she is comparing herself to Olivia Harry, Sharon Kinahan, Veronica Marques-Capela (all white). This was throughout her period of employment;

3.2.4. reducing the claimant's salary in 2020 during lock down. It was reduced from £40K to £37,500 to £36K. She was the only back PA. The person that covered her role had her salary increased;

3.2.5. in February 2019, leaving the claimant out of the staff structure chart;

3.2.6. in March 2019, there was an initiative to recruit PA's from a

broader ethnic background called ‘Project Coffee’. The claimant was asked to greet staff employed as a result of this initiative. She felt she was asked to do this because she was black;

3.2.7. in November 2019, rejecting/failing to give proper consideration to the claimant’s complaint of race discrimination. It was a formal complaint to Lauren Mallon of HR.

3.2.8. failing to allow the claimant to work flexible hours (October 2021). She compares herself to Maria Garrogori, and also Louise Healey, both white PA’s;

3.2.9. failing to offer the claimant the opportunity to work as Wes Taylor’s PA to cover maternity leave (June 2022);

3.2.10. excluding the claimant from Andy Clappen introductory meeting (April/May 2022);

3.2.11. failing to offer the claimant the post of George Wright’s PA (May 2022);

3.2.12. failing to invite the claimant to Danielle’s drinks party (May 2022);

3.2.13. failed to allow the claimant to work as Andy Clappen’s PA (May 2022);

3.2.14. dismissing the claimant’s complaint about pay inequality between her and white PA’s (June 2023), sent to Heather Chapman, who forwarded it to Lauren Mallon;

3.2.15. failing to ask the claimant to support Andy Clappen as his PA on a temporary basis (January/February 2023);

3.2.16. failing to offer the claimant an interview for the post of Executive Assistant in communications/public affairs in September 2023

3.2.17. placing the claimant into the redundancy ‘pool’;

3.2.18. Debbie Barnes and Heather Chapman both attempting to coerce the claimant into accepting redundancy. She was told she should taker the redundancy by Ms Barnes. Heather Chapman told her she should take redundancy ‘given everything you have going on’;

3.2.19. rejecting the claimant’s grievance (re. discrimination) in October 2023;

3.2.20. rejecting the claimant’s appeal against the refusal of the grievance;

3.2.21. dismissing the claimant by purported reason of redundancy;

3.2.22. during the redundancy process, failing to notify the claimant of similar vacancies within the business e.g. PA roles advertised in finance, clothing and home (advertised on LinkedIn on 10 October 2023), and a PA in foods recruited in December 2023/January 2024;

3.2.23. rejected the claimant's appeal against dismissal

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

3.4. If so, was it because of race?

3.5. Did the respondent's treatment amount to a detriment?