EMPLOYMENT TRIBUNALS

Claimant:	**Mrs Lillian Chapman**	
Respondent:	**The Veterinary Medicines Directorate**	
Heard at:	**London South via CVP**	**On: 27 – 31 October 2025**
Before:	**Employment Judge R Havard**	

Representation:
Claimant: In person
Respondent: Mr A Tinnion, Counsel

JUDGMENT having been sent to the parties on 12 November 2025 and reasons having been requested by the Claimant in accordance with Rule 60 of the Employment Tribunal Rules of Procedure 2024.

REASONS

Background

1 By a claim form submitted to the Employment Tribunal on 7 April 2024 the Claimant brought complaints of constructive unfair dismissal; direct race discrimination and unpaid holiday pay.

2 Subsequently, on the basis that the Claimant had not been employed by the Respondent for a continuous period of two years, her claim of constructive

unfair dismissal was struck out by an Order of the Tribunal dated 27 January 2025.

3 Consequently, this hearing was to determine the Claimant's claims of direct discrimination on the grounds of race and her holiday pay claim.

4 The Grounds of Resistance on which the Respondent relies are set out in an Amended Response dated 3 June 2025. The Respondent was given leave to amend its response at a Case Management Hearing held on 17 April 2025 at which, at the same time, a List of Issues was discussed, following clarification of certain aspects of the Claimant's claims.

List of Issues

5 With regard to the List of Issues, whilst a draft list was prepared in advance of the Case Management Hearing, it was not until the morning of the first day of this hearing that, following further discussion between the parties and myself, a list was finally agreed. The List of Issues is appended to this document, and they are also reproduced in the section of this judgment when I provide my analysis and conclusions.

Evidence

6 In terms of evidence, I heard from the Claimant.

7 For the Respondent, I heard evidence from the following, in the following order. The job titles are those held by the witnesses at the material time:

(1) Natalie Shilling, who at the time the Claimant commenced employment at the Respondent held a Continuous Improvement role in the Business Support Division and then from 1 July 2023 became Head of People Services;

(2) Diane Taylor, an Executive Officer in the Director's Support Office;

(3) Abigail Seager, Chief Executive Officer of the Respondent;

(4) Beata Baranska, Executive Officer in the Director's Support Office;

(5) Jacqueline Curtis, who from July 2023 became Head of Corporate Services within the Business Support Division of the Respondent, and finally

(6) Sue Quinney, Veterinary Head of the Regulatory Affairs of the Animal and Plant Agency and Executive Agency of Defra.

8 All those who gave oral evidence had provided written witness statements.

9 An agreed bundle had been prepared by the Respondent and submitted together with an index; the bundle ran to 643 pages. Save where is indicated to the contrary, all page references in this document refer to this bundle.

10 As for submissions, in advance of the hearing, the Claimant had provided three documents entitled: “opening legal submissions” running to 7 pages; “comprehensive aid to memory” running to 11 pages, and “comprehensive respondent inconsistencies and comparators” running to 6 pages.

11 At the conclusion of the evidence, Mr Tinnion provided written closing submissions which is a document running to 12 pages which he supplemented with a Chronology and an outline of the law together with brief oral submissions.

12 Finally, the Claimant made oral closing submissions to the Tribunal and submitted two further documents entitled “Claimant’s Closing Submissions” running to 4 pages and a “Closing Addendum” running to 2 pages.

Findings of Fact

13 When reaching my findings of fact, it is important to bear in mind that it is not possible for me to rehearse every single piece of the evidence that I have heard and read during the course of this hearing. I may also make findings of fact which do not bear directly on the issues to be determined but, in my judgement, form important background.

14 Before I set out my findings of fact, I wish to comment on the quality of the oral evidence I have heard.

15 In many ways, I concluded that there were not many material differences between the Claimant and the Respondent’s witnesses regarding the events that unfolded following the Claimant commencing her role at the Respondent and what was said either verbally or in writing. Indeed, there is considerable written evidence in the form of emails or Teams messages and other similar-type documents which formed a part of the background, the strict content of which cannot be disputed.

16 Where relevant, there is also a substantial level of agreement about what was actually said, for example the conversation between the Claimant and Mrs Seager regarding what Mrs Seager said about Ms Baranska and about which I will say more in due course.

17 Where there are any disputes as to the facts, it did not appear to me that such disputes necessarily went to the heart of what these claims were all about.

18 I concluded that the Claimant provided her account in a way which reflected what she believed to have happened and why. Equally, I found each of the witnesses called to give evidence on behalf of the Respondent to be both credible and reliable. Their oral evidence was consistent with the documentary evidence contained within the bundle. Indeed, much of their evidence contained in their witness statements was not challenged by the Claimant. Where they were unable to answer a question because either they could not remember or it was outwith their knowledge, they readily said so.

19 In conclusion, much of this case revolves around the Claimant's interpretation of what was said and what happened as opposed to substantial conflicts of evidence. Indeed, the Claimant confirmed, on more than one occasion, that this was so.

20 I now turn to my findings of fact.

21 The Respondent is an Executive Agency within the Department of Environment, Food and Rural Affairs, better known as Defra. It was described by Ms Quinney as a relatively small agency and its role is to protect animal health, public health and the environment. The Respondent's Head Office is in Addlestone in Surrey. The location of the Respondent's Head Office became an issue of some importance.

22 On 7 December 2021, the Claimant commenced employment with Defra as a Personal Assistant, but in a different agency to the Respondent. The Claimant, who is black and of African origin, resides in Portsmouth. The Claimant applied for a role of Executive Officer in the Directors' Support Office ("DSO") of the Respondent. This was in early 2023. As part of the recruitment process, the Claimant had to participate in an interview. Ms Natalie Shilling was on the panel that interviewed the Claimant. Ms Shilling supported the Claimant's appointment to the role and the Claimant commenced her job as an Executive Officer in the DSO with effect from 1 April 2023, her first day in the office being on 3 April 2023.

23 When the Claimant commenced her role, the other EOs in DSO were Diane Taylor, who was someone of considerable experience having worked in that role since 2018, and a temporary EO, Heidi Reiser.

24 At that time there was no Higher Executive Officer in the DSO to provide line management and so line management of the EOs was picked up by the Chief Operating Officer ("COO"), Mike Griffiths. However, whilst that was the intention, the reality was that Mr Griffiths was too busy to fulfil this role effectively and so, whilst not formally appointed as line manager, Ms Shilling provided as much support and guidance as she could.

25 On 4 April 2023, Ms Taylor assisted the Claimant in her induction, showing her around the office. It became apparent that the Claimant was most concerned at the fact that she would have to attend the office on two days per week as she anticipated that she would only have to attend one day a week.

26 I accepted the Claimant's evidence and found that, depending on traffic conditions, her round trip from Portsmouth would take between 2.5 and 4 hours.

27 The Claimant accepted that, before accepting the role, she had neglected to ask how often she would be expected to travel to the office. Her unhappiness with her need to commute more than once a week was brought to the attention of Mike Griffiths who enquired whether the Claimant wished to see whether it might be possible to revert to her previous role, but this was not progressed. However, Mrs Seager believed that this had an adverse effect on the Claimant's approach to her work.

28 Ms Reiser continued as a temporary EO for the first three months the Claimant worked at the Respondent. It became clear that the relationship between them quickly became difficult and strained, although it is worth pointing out that none of the complaints on which the Claimant relies relate specifically to Ms Reiser.

29 In June 2023, Ms Beata Baranska commenced her employment as an EO in the DSO alongside the Claimant and Ms Taylor. Before the Claimant joined the DSO, Ms Taylor was primarily responsible for supporting the Chief Executive Officer, Mrs Seager. When the Claimant and Ms Baranska were in situ, the Claimant took on primary responsibility for Mrs Seager with Ms Taylor responsible for the Deputy CEO and Ms Baranska responsible for the COO, Mike Griffiths.

30 However, whilst this was their primary responsibility, it was also an important part of their role to cover the tasks of the other EOs if they were on leave or away through ill health. As for the role itself, the day-to-day responsibilities of EOs in the DSO team involved monitoring and organizing directors' calendars,

arranging and assisting with meetings, which would include taking and then circulating minutes, and monitoring the shared DSO email inbox.

31 Mrs Seager stated, and I find, that she operated an open-door policy and she also held the role of Respect at Work Champion within Defra. Mrs Seager confirmed that, for the DSO to operate effectively, a commitment to teamwork was essential. This was a view expressed by all witnesses who gave evidence on behalf of the Respondent and this was consistent with the fact that the EOs would have shared access to the Directors' calendars and the DSO mailbox.

32 With regard to the Claimant being trained in her new role, I am satisfied that, whilst her relationship with Ms Reiser proved to be difficult, the same could not be said of the Claimant's relationship with Ms Taylor and the level of training and support the Claimant received from her. Indeed, in fairness to the Claimant, she readily accepted in her oral evidence that Ms Taylor had been supportive of her and provided her with training. This is also consistent with the exchanges of emails and messages between them which started in April 2023 and continued through to September 2023 shortly before the Claimant resigned from her role.

33 I refer to two examples, the first on 28 June 2023 (page 203) and the second on 6 September 2023 (page 259). In relation to the example on 28 June 2023, the email from Diane Taylor to both the Claimant and Ms Baranska said as follows:

"Hi both, I think I touched on this the other day but a good example. Anything HR including recruitment is now only discussed at either the monthly HRC or weekly HR lite meetings and Andy Saunders (might be Andrew in the address book) deals with collating agenda items for HR, (HR agendas are sent out to Abi, Gavin and Mike as private so we cannot even see the agenda).

If you get a request from something HR related come in for EMB just reply copying in Andy S and advise this is now only discussed at HR meetings and Andy (copied in) is responsible for the agenda.

By copying in Andy he can pick up and take forward - job done.

Many thanks

Diane"

34 And then on 6 September, so almost 3 months later, and indeed shortly before the Claimant's resignation, Ms Taylor wrote to the Claimant as follows, starting with the Claimant's email to Ms Taylor on 6 September at 2.12pm:

"*Hi Dianne,*

Please help, no idea.

Regards

Lillian"

35 Ms Taylor then responded at 2.25pm, so some 13 minutes later, saying:

"*Hi Lillian,*

You need reply all to Euan's email (attached) and reattach the document and say there are no authorised UK veterinary medicines that contain Phenothrin and leave it at that.

Go onto the CMS record and add Gill's email then add as the final response to close your email to the MCU.

Many thanks

Diane"

36 I am satisfied that Ms Taylor also trained the Claimant on how to complete the key tasks to her role to include dealing with requests from the Food Standards Agency, how to deal with ministerial correspondence and how to log such correspondence onto the database and a spreadsheet. I refer in particular to paragraph 13 of Ms Taylor's statement which provides detail with regard to the training on dealing with ministerial correspondence. Ms Taylor provided further explanation in the course of her oral evidence when describing the meaning of *"cleared lines"* which effectively meant "approved responses" to ministerial correspondence.

37 Ms Taylor said, and I find, that she told the Claimant that if she was not clear on how to effect a particular task she should contact Ms Taylor and she would assist. The fact that the Claimant took advantage of this offer is evidenced by the email exchanges and Teams exchanges, to include the example of the exchange on 6 September 2023. In the course of her evidence, the Claimant agreed that, in the period from 6 April 2023 to 6 September 2023, she was provided with guidance and support by Ms Taylor.

38 Whilst it was described by Ms Taylor as unstructured, I am satisfied that the Claimant received appropriate training, guidance and support from Ms Taylor.

39 I am also satisfied that the Claimant was offered guidance and support from Ms Baranska. Indeed, it was accepted by the Claimant that Ms Baranska offered support. However, the Claimant describes such unprompted offers of support from another EO who had been recruited more recently than her as *"harassment"*. However, the tone of the exchanges between the Claimant and Ms Baranska did not support such a view.

40 On 20 July 2023, the following exchange took place between Ms Baranska and the Claimant (pages 254-5):

"Morning Lillian, there are emails from [a particular individual] in DSO inbox regarding Ministerial correspondence - do you know how to do it? Let me know if you need help"

41 The Claimant replied:

"Morning B, I have just had a look would you like to action them? I have meetings to book for Abi but equally happy to que them in my list of actions for this morning"

42 Ms Baranska replied:

"Hi Lillian, sure! I will try my best - it will be my first time so if you could double check after me if I've done it correctly that would be great. I will let you know when it's done."

43 And the Claimant said:

"Perfect! I have an idea would be my second time but will have a look when it done"

44 Even though there was evidence of collaborative working, which was considered by Ms Taylor and Mrs Seager to be critical to enable the DSO to run efficiently, Mrs Seager concluded that the Claimant did not want to work as part of a team. Indeed, this was not challenged by the Claimant and was consistent with her allegation that Ms Baranska's offers of help amounted to harassment.

45 However, Mrs Seager stated that the way the DSO should function is if she, or one of the directors, needed anything to be done, they would send the request to the shared DSO mailbox for one of the EOs to pick up.

46 I accept Mrs Seager's evidence and find that in a catch up between her and the Claimant in or about mid-June 2023, the Claimant stated that if one of the other EOs picked up a task that Mrs Seager sent to the shared mailbox, she considered that this was meddling in her work. Whilst Mrs Seager explained the advantages of the shared mailbox, she recalled the Claimant saying that she did not want to work as part of a team.

47 The issue of the Claimant's approach to her role as part of a team was also highlighted by the Claimant referring to remarks made to her by Mrs Seager regarding Ms Baranska. It was stated by the Claimant that, on 26 June 2023, Mrs Seager had said to the Claimant, "*Beata is very good at making out where things go, you should ask her sometimes".* Then, on 7 July 2023, Mrs Seager said to the Claimant, *"Beata is doing a good job with Mike's inbox before you take him on"*. Mrs Seager accepted, and I find, that these comments were likely to have been made by her, not as an implied criticism of the Claimant but as a suggestion that the Claimant might like to speak to Ms Baranska for advice, for example on how to manage Mr Griffiths's inbox in Ms Baranska's absence.

48 On 3 July 2023, Ms Curtis, a Higher Executive Officer, took over line management of the DSO team.

49 On 12 July 2023 the Claimant requested a catch-up. It is worth recounting that exchange which illustrates that Ms Curtis was certainly receptive to meeting with the Claimant. The Claimant says to Ms Curtis (page 208),

"I would appreciate a catch up with you at some point tomorrow or Friday. If you are in the office today would even be better."

50 Ms Curtis replied:

"Morning Lillian, unfortunately I am not in the office today. I have a meeting with the Directors tomorrow and will then put meetings in place once there is a formal handover from Natalie to me so we can review current procedures and team working so we are all on the same page and working as a team to deliver the expectations of the Directors"

51 The Claimant replied,

"Thank you"

52 Ms Curtis said,

"Just bear with me whilst the transition takes place"

53 However, the catch up did not take place, partly due to the Claimant being away ill on 17 and 18 July 2023. Indeed, I find it had been the intention of Ms Curtis to arrange one-to-one meetings with the Claimant but she was new to the role and very busy and the Claimant was away on sick leave, then on leave, then on extended sick leave in August 2023. However, I also find that formal one-to-one meetings had also not been arranged with the other EOs either.

54 On taking up the post, Ms Curtis considered that certain members of the team were quite new and inexperienced and that the team was not working together very well or efficiently. She therefore instigated in July 2023 a *"DSO reset"*. As part of that reset, a meeting was held on 25 July 2023 and the team was told that it was decided to increase the minimum attendance in the office from 40% to 60% i.e. from two days per week to three. This was designed to develop a more collaborative, and thereby more efficient, working environment.

55 Subsequently, Ms Curtis formed the same view as Mrs Seager that the Claimant did not want to work as part of a team. Indeed, I accept Ms Curtis's evidence and find that the Claimant said to her that she avoided speaking with colleagues and did not want to have anything to do with them. This was also consistent with the evidence of Ms Baranska who stated that the Claimant did not seem to want to get to know her and preferred *"working solo"*. Indeed, once Ms Curtis informed Ms Baranska at the end of August 2023 that the Claimant found her offers of support frustrating, she refrained from doing so.

56 On 27 July 2023, the Claimant met with Ms Curtis and Mrs Seager. This was originally a regular catch-up meeting with Mrs Seager but Mrs Seager requested Ms Curtis to attend as Mrs Seager was concerned that the Claimant had not been providing her with the necessary level of support and that deadlines were not being met. The Claimant became very upset and left the meeting. Mrs Seager found the Claimant to be defensive and not receptive to what was intended to be constructive feedback. There was then an exchange of emails between the Claimant and Ms Curtis, the Claimant suggesting that she felt attacked.

57 On 27 July 2023 Mrs Seager sent the following email to the Claimant (page 364):

“Hi Lillian

I am concerned about your email reply and am writing to you to be clear about what I said, that being “we are having a moment to reconsider expectations of DSO now that Lillian and Bea have been recruited, to ensure all expectations are clear from directors to the office. It is acknowledged that currently not all expectations are being met”. The office is fast paced and there are high expectations on performance and working together as a team, possibly greater than you are used to within Defra. So far, we have given you and Bea lots of time to get to speed with the work and held back on any overloading with the full remit of the office, but now that induction is complete we need to review the complete remit.

It is normal across Civil Service that feedback is given, I understand that sometimes that is difficult to hear and as a result you may not have heard fully the words being used but I certainly did not say “you do not meet expectations”. We needed to talk today as my support needs were not being met yesterday, as per the emails and work was outstanding.

It was obvious to me from the moment you joined the call that you were unhappy, this came across in your behaviour/attitude and short answers, including when I asked you how you were. I suggested (again) that you talk to your line manager.

In our call, you were simply asked to provide the work you said you were doing ie minutes that were minimal and that you said would be complete by Wednesday latest.

In our catch ups you have expressed difficulty getting on with previous members of the team, but upon Heidi leaving and Diane returning from leave, you said the environment improved. I suggested to you that you should attend the office with the others more to build a working relationship. Today you said you avoid speaking to the team as much as possible.

You said you wanted to leave the VMD, I advised you to think on this and the range of options over the next week and discuss with Jackie on return. You could complete a stress risk assessment or have an OH referral. I do not believe any of which have been undertaken so far nor the conflicts you refer to below have been brought to anyone’s attention for addressing.

Ultimately, we want a happy workplace for all, where the team works collaboratively and delivers efficiently and effectively and I will do all I can to help achieve this.

We can talk more on this when you return from leave.

Kind regards

Abi"

58 From 28 July 2023 to 7 August 2023, the Claimant was on leave. She was then on sick leave from 8 to 22 August 2023. On 8 August 2023, Ms Curtis sent an email to the Claimant (page 230) saying

"Good morning Lillian

I am sorry to hear that you are unwell, if you want to arrange a chat at any time then just drop me an email. With regard to the doctors note, please could you forward this at your earliest convenience".

59 The Claimant replied,

"Attached is my sick off, hopefully I'll be in on Wednesday 23 August"

60 On 22 August 2023 Ms Curtis and the Claimant had the following exchange (page 234):

"Hi Lillian, Just wanted to touch base and see how you are doing. You are due to return to work tomorrow in the office, is this still the case? Thanks"

"Hi Jackie, yes, feeling better will be in tomorrow. Regards"

61 Ms Curtis said *"So glad you're feeling better and look forward to seeing you tomorrow. I will pop in a slot for us to have a catch up".*

62 On 23 August 2023 a return-to-work meeting took place and this was followed by an email to the Claimant from Ms Curtis on 25 August and it said as follows (page 370):

"Good morning Lillian

I hope you are well! Further to my email below please can you respond to my recommendations. Also I will set up the weekly catch ups from next week. Please remind me what days ordinarily you are in the office and I will endeavour to attend in person, otherwise will be via Teams".

63 This was followed by an email on Ms Curtis's return from holiday on 6 September 2023 referring to arranging catch up meetings from the following week. However, on the following day, the Claimant wrote to Ms Curtis to enquire about a change in her work responsibilities and to move to another team. Ms Curtis replied on 11 September 2023 to say that such a move was something that could be explored. She copied her email to Ms Shilling so that she could provide her input to the Claimant's request and Ms Shilling then met with Helen Chuni on 13 September 2023 to discuss the Claimant's request.

64 However, on the same day, 13 September 2023, the Claimant met with Ms Curtis and verbally indicated her intention to resign and this was confirmed in writing to Ms Curtis on 14 September. At the same time the Claimant submitted a grievance.

65 On 15 September 2023 the Claimant held a conversation with Ms Shilling and this conversation was confirmed in an email from Ms Shilling to the Claimant later that day. Ms Shilling said as follows (page 306):

"Dear Lillian

Thank you for chatting with me earlier.

We discussed the issues raised in your dispute resolution form [in other words her grievance]. We discussed the dispute resolution procedure and you said that you tried to resolve some issues informally but you hadn't raised the issue of racism with anyone at VMD. Whilst we haven't had the opportunity to try to resolve all issues informally you felt that the best way forward was via the formal procedure. I confirmed that we would be launching a full investigation using an independent investigator, i.e. not someone from within the VMD.

We agreed that you can refrain from working whilst the investigation is ongoing to minimise any stress on you and to prevent further exacerbating the situation.

I asked whether you wanted to continue with your resignation and you said yes."

66 It went on to say,

"*As your line manager is named in your dispute I will be your contact point during the investigation" and Ms Shilling goes on to say, "I also asked if there's anything we can do to additionally support you during this time e.g. OH referral but you said no. This offer stands, so if you do not think of anything please let me know.*

I'm sorry that we are in this situation, we take the allegations raised in your dispute very seriously and will ensure that they are investigated thoroughly and fairly."

67 Whilst there is reference in Ms Shilling's email to racism, it was not in dispute that this was the first occasion on which it had been mentioned. Allegations of racism were made in the grievance document against Ms Curtis, Ms Baranska and Mrs Seager but not Ms Shilling. However, the Claimant confirmed that her allegations of racism included Ms Shilling when she outlined the position at the beginning of this hearing.

68 Some arrangements were made regarding the Claimant's access to the directors' mailbox and the shared DSO mailbox. There were certain unforeseen technical issues but they were resolved. It was at this stage that Sue Quinney was appointed the Decision Manager and that Michelle Wilson would be the Investigations Manager. Whilst the Claimant expressed concern as to Ms Quinney's suitability to be the Decisions Manager, I find that Ms Quinney is based in an entirely separate executive agency within Defra and did not know anyone named or directly involved in the grievance. Further, she had not worked before with the Investigations Manager.

69 On 29 September 2023, Ms Quinney sent to the Claimant draft terms of reference. Following certain amendments being made by the Claimant to those terms of reference they were then sent to the Investigation Manager, Michelle Wilson, who was instructed to commence her investigation.

70 It was alleged by the Claimant that there was a delay in progressing the grievance to a conclusion and that such delay was deliberate in order to delay the Claimant issuing her claim at the Tribunal. Whilst I find there was a level of delay, this was not deliberate. I found Ms Quinney to be a credible witness and I accepted the reason she gave for the delay, namely, and primarily, due to illness on the part of Ms Wilson.

71 On 18 December 2023, Ms Wilson sent her report to Ms Quinney, who, after some leave over Christmas, reviewed the report on 28 December 2023 and liaised further with Ms Thomas on the same day and on 29 December 2023.

72 On 2 January 2024, the Claimant submitted some medical evidence to Ms Quinney who responded to the Claimant on the following day that she was working on her decision and would submit it as soon as possible.

73 On 4 January 2024, the Claimant responded saying, *"I'm happy for you to send it to me. I can discuss with Leah later if I need to. Regardless of the outcome I'm happy that I got a neutral platform to say my side."*

74 On 11 January 2024, following some last-minute IT issues and some final enquiries having been made, Ms Quinney forwarded her grievance outcome letter confirming that the Claimant's grievance was not upheld (page 495). In the same letter, Ms Quinney confirmed that as the Claimant had left the Respondent she did not have a right of appeal. Whilst the Claimant stated that she had consulted her union and that she requested Ms Quinney to reconsider her decision, Ms Quinney confirmed in her letter of 25 January 2024 (page 522) that there was no right of appeal.

75 On 4 April 2024 the Claimant notified ACAS and ACAS issued its Certificate on 5 April 2024 (page 11). The claim form was filed on 7 April 2024.

76 It was stated by the Claimant that she did not issue proceedings at an earlier date because she believed it was necessary to exhaust the internal grievance procedure before it was possible for her to do so.

77 On 9 February 2024, the Claimant submitted a document to her union, PCS, seeking advice on the merits of her claim (pages 26 to 38). At sections 5 and 10 of that form it makes reference to time limits within which the claim should be lodged with the Tribunal. In particular, section 5 states *"….employers internal processes such as grievances or dismissal appeals do not extend the 3 months less 1 day limitation period".* I am not persuaded by the Claimant's evidence that she did not read the text on the form when she completed it, and even if she did not, she should have done so and the notice provided by PCS regarding time limits is clear.

78 Unusually, the hearing bundle includes a letter of advice from the PCS dated 4 April 2024 and the Claimant lodged her claim form 3 days later.

79 Neither the grievance, nor the request made by the Claimant to her union, included any reference to the Claimant's holiday claim.

80 Finally, and importantly, the Claimant confirmed, and I therefore find, that the grievance procedure and her concerns regarding the process that was followed does not form part of her claim of direct race discrimination.

81 There are five residual matters on which I need to make findings of fact; although not all of them feature in the List of Issues that I am required to consider, I believe they are important background.

82 Those residual matters concern: first, issues relating to the Claimant's desk; secondly, the allegation that Ms Shilling humiliated the Claimant by meeting with her in the church car park to return the Claimant's belongings; thirdly, that the Respondent did not inform the Claimant that colleagues had raised a grievance against her; fourth, emails from Ms Baranska to the Claimant being copied to Ms Curtis, and fifth, Ms Baranska's conduct towards the Claimant at a meeting on 12 September 2023.

83 In respect of the desk, it was suggested by the Claimant that, on 7 July 2023, Ms Baranska was endeavouring to engineer a situation where she took over the Claimant's desk. The Claimant suggested that her desk was *"targeted".* Ms Seager confirmed that she recalled the discussion about desks which is consistent with the account provided by Ms Baranska. The point made by Ms Baranska was that the desk at which the Claimant sat faced the door into the room through which visitors would arrive. Ms Baranska stated that as she was in the office more than anyone else it may be an idea for her to sit at that desk. However, the Claimant did not wish to move and exchanged messages with Ms Baranska on 6 July 2023. The Claimant said to Ms Baranska (page 247):

"Hi both, On sitting arrangements can also add that I'm happy where I'm sitting and I don't really want to have to move. Thanks",

84 Ms Baranska replied,

"Oh that's actually something I wanted to talk about on Monday as Abi suggested to me to sit on your desk as I'm more often in the office. However, I'm happy to use the other desk on Monday's when we're all in and on other days use the front desk. It doesn't really matter for me where I sit as long as it's not back to the doors, so I'm easy."

85 Mrs Seager stated that, as far as she was concerned, the matter was resolved and that the Claimant would sit at her usual desk when she was in the office.

86 Having listened to the evidence, and having read the exchange of emails, I prefer the account provided by Ms Baranska and Mrs Seager and reject the Claimant's suggestion that there was a plan to move her from her desk and that her desk was, as she described it, "targeted".

87 As for the arrangements for the Claimant to return her IT equipment and security passes, it was claimed by the Claimant that she was humiliated as she was required to meet Ms Shilling in the church car park. Ms Shilling confirmed

that there were a number of car parks at or near the site of the head office and a number of people often used the car park at the church to avoid going through security. In her email to Ms Shilling of 4 October 2024 (page 410) the Claimant says that she was happy to meet someone in the parking lot to drop off the items and later she responded to Ms Shilling saying that she would text her *"when I get to the parking".*

88 On 12 October 2024 Ms Shilling sent an email saying "*Will you be in the church car park or a VMD one?"* (page 412) and the Claimant replied saying *"I will be at the church (did not realise I could) and easier for me to drop off my security passes"*. It was therefore the Claimant who chose to park in the church car park.

89 It had been claimed by the Claimant that she had not been informed that colleagues had lodged a grievance against her. The only evidence that a grievance had been made against her was from her union. This was in a letter from PCS dated 4 April 2023 (page 532) in which it is said that it was understood that the Claimant had lodged a grievance *"but was also the subject of a separate grievance complaint by her"*. However, no further evidence had been provided by the Claimant whether from herself or from her union and all the witnesses called to give evidence on behalf of the Respondent had no knowledge of any grievance being lodged against the Claimant, I therefore find, on the balance of probabilities, that no grievance had been lodged against the Claimant.

90 As for the practice of Ms Baranska copying her emails to the Claimant to Ms Curtis, it was readily accepted by Ms Baranska that she did so but her motive for doing so was to keep her line manager informed of what was happening. I accepted Ms Curtis's evidence which was consistent with that of Ms Baranska when she stated that it was normal for her to be copied in on emails by all members of her teams. She also was of the view that, at the time, both the Claimant and Ms Baranska were still relatively new to their roles and so she wished to maintain oversight which I find to be a perfectly plausible explanation. I therefore do not accept the Claimant's assertion that Ms Baranska copied her emails to the Claimant to Ms Curtis in order to exert pressure on her, nor do I find that the practice of copying emails to Ms Curtis as line manager was restricted to those sent by Ms Baranska to the Claimant.

91 Lastly, the Claimant referred to the conduct of Ms Baranska at a meeting on 12 September 2023 when Ms Baranska had asked for a response to an email in a meeting at which other members of the team were present and which had no bearing on the topics being discussed. The Claimant considered that this

was designed to embarrass her in front of others and she described it in her oral evidence as the best example of how she was discriminated against on the grounds of race. However, Ms Baranska stated that she had already reached out to the Claimant for a response by email on two occasions and the Claimant had failed to respond. It was a matter of some urgency as it related to a meeting the day after involving the chief executive as chair and it looked as if nothing was booked.

92 Ms Baranska agreed that calling out a colleague in this way may be undermining but she was frustrated at the Claimant's lack of response. However, whilst the Claimant suggested that this conduct, which may have been unwanted, was because she was black or of African origin it was never put to Ms Baranska that this was so and Ms Baranska confirmed in her evidence that she denied that she treated the Claimant less favourably than any of her colleagues either because of her race or for any other reason. I also noted that this incident is not included in the List of Issues I am required to determine.

93 Finally, with regard to holiday pay, in her claim form the Claimant claims an amount equivalent to 11 days accrued holiday pay. Ms Shilling sets out in detail the basis on which the Respondent had calculated the amount owed to the Claimant in relation to accrued holiday pay and flexi credit and refers to relevant documentation in the bundle to support her calculation. Her evidence was not challenged by the Claimant and I therefore find that the amount outstanding to the Claimant for flexi credit is £36.08 and accrued holiday pay amounts to £652.67.

94 The Claimant had been requested to provide her bank details to enable these amounts to be paid but in her oral evidence the Claimant confirmed that she declined to provide them and preferred to proceed to a hearing which of course she is entitled to do.

The Law

95 I now turn to the legal framework within which I must reach my decision. The basic provision in relation to direct discrimination is found in Section 13 of the Equality Act 2010 ("EqA") as follows:

(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.

96 In relation to direct race discrimination for present purposes the following are the key principles.

97 Under Section 13 there are two issues (a) less favourable treatment and (b) the reason for that less favourable treatment.

98 As set out in ***Shamoon -v- Chief Constable of the Royal Ulster Constabulary*** **[2003]** these questions need not be answered strictly sequentially. Given the treatment must be less favourable, a comparison is required and a comparator must be in the same position in all material respects as the victim save only that he or she is not a member of the protected class.

99 With regard to burden of proof, the burden of proof is set out in Section 136 of the Equality Act which provides as follows:

"(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 sub-section (2) does not apply if A shows that A did not contravene a provision.

100 The leading cases on the burden of proof pre-date the Equality Act (***Igen Limited -v- Wong*** **[2005] EWCA Civ 142** and ***Madarassy -v- Nomura International PLC*** **[2007]** EWCA Civ 33) but in ***Hewage -v- Grampian Health Board*** **[2012],** the Supreme Court approved the guidance given in ***Igen*** and ***Madarassy***.

101 By virtue of Section 136, it is for a Claimant to prove on the balance of probabilities facts from which the Tribunal could decide, absent any explanation from the Respondent, that the Respondent has discriminated against the Claimant. If the Claimant succeeds in doing so, the burden of proof shifts to the Respondent to show it did not discriminate as alleged.

102 In ***Madarassy,*** the Court of Appeal held that the burden of proof does not shift to the employer simply on the Claimant establishing a difference in status and a difference in treatment. This merely gives rise to the possibility of discrimination; something more is needed. Any inference about sub-conscious motivation has to be based on solid evidence (***South Wales Police Authority -v- Johnson [2014] EWCA Civ 73)***.

103 The "something more" required to shift the burden does not represent a significantly high hurdle. In ***Denman -v- EHRC*** **[2010] EWCA Civ 1279,** the Court of Appeal held that

"the more which is needed to create a claim requiring an answer need not be a great deal. In some instances it will be furnished by non-response or an evasive or untruthful answer to a statutory questionnaire. In other instances it may be furnished by the context in which the act has allegedly occurred".

104 There is a useful summary of the law on the shifting burden of proof in ***Field -v- Steve Pye and Co. Limited and others*** **[2022] EAT 68.**

105 HHJ Tayler put the position as follows:

44, "if having heard all of the evidence the Tribunal concludes that there is some evidence that could indicate discrimination but, nonetheless, is fully convinced that the impugned treatment was in no sense whatsoever because of a protected characteristic, it is permissible for the Employment Tribunal to reach its conclusion at the second stage only, but again it is hard to see what the advantage is. Where there is evidence that could indicate discrimination there is much to be said for properly grappling with the evidence and deciding whether it is or is not sufficient to switch the burden of proof. That would avoid a Claimant feeling that the evidence has been swept under the carpet. It is hard to see the disadvantage of stating that there was evidence that was sufficient to shift the burden of proof but that despite the burden having been shifted and non-discriminatory reason for the treatment has been made out.

45. Particular care should be taken if the reason for moving to the second stage is to avoid the effort of analysing evidence and could be relevant to whether the burden of proof should have shifted at the first stage. This could involve treating the two stages as if hermetically sealed from each other, whereas evidence is not generally like that. It also runs the risk that a Claimant will feel that their claim that they have been subject to unlawful discrimination has not received the attention that it merits.

46. Where a Claimant contends that there is evidence that should result in a shift in the burden of proof they should state concisely what that evidence is in closing submissions, particularly when represented."

106 Consequently, a complaint of direct discrimination will only succeed where the Tribunal finds that the protected characteristic was the reason for the Claimant's less favourable treatment.

107 In ***Gould -v- St Johns Downshire Hill*** **[2021] ICR 1, EAT,** Mr Justice Linden summarised the case law and said,

"the question whether an alleged discriminator acted because of a protected characteristic is a question as to their reasons for acting as they did, it has therefore been coined the reason why question and the test is subjective for the torte of direct discrimination to have been committed it is sufficient if a protected characteristic had a significant influence on the decision to act in the manner complained of, it need not be the sole ground for the decision and the influence of the protected characteristic may be conscious or sub-conscious."

108 Perhaps the best description of how the Tribunal should approach this question was set out by Lord Nichols in ***Nagarajun -v- London Regional Transport*** **[1999]** ICR 877, HL when he said,

"save in obvious cases, answering the crucial question will cause some consideration for mental processes of the alleged discriminator. Treatment favourable or unfavourable is a consequence which follows from a decision. Direct evidence of a decision to discriminate on protected grounds will seldom be forthcoming, usually the grounds of the decision will have to be deduced or inferred from the surrounding circumstances."

109 Unreasonable conduct alone is usually not enough to justify an inference of discrimination. As the Court of Appeal noted in ***Igen***, although unreasonable conduct that may entitle a Tribunal to draw an inference of discrimination. Tribunals should guard against too readily inferring unlawful discrimination on a prohibited ground merely from unreasonable conduct "*where there is no evidence of other discriminatory behaviour on such ground".*

110 It is well established that direct discrimination can arise in one of two ways: first, where it is taken on a ground that it inherently discriminatory, that is where the ground or reason for the treatment complained of is inherent in the act itself, such as the employers application for a criterion that differentiates by race, sex etc. In cases of this kind, what was going on inside the head of the discriminator, whether described as intention, motive, reason or purpose, will be irrelevant. Or secondly, where a decision is taken for a reason that is subjectively discriminatory, that is where the act complained of is not in itself discriminatory but is read as so by a discriminatory motivation, i.e. by the mental processes, whether conscious or unconscious, which led the putative discriminator to do the act.

111 The Tribunal's focus must at all times be at the question whether or not they can properly and fairly infer discrimination as the EAT said in ***Laing -v- Manchester City*** and in considering what inferences can be drawn Tribunals must adopt a holistic approach by stepping back and looking at all the facts in the round and not focusing only on the detail of the various individual acts of discrimination. We must "see both the wood and the trees" as was said in ***Frazer -v- University of Leicester*** in EAT decision.

112 With regard to the procedural fairness and the requirement for the Claimant to put her case to the Respondent's witnesses to enable them to respond, I have been referred to the case of ***Tui UK Limited -v- Griffiths*** [2023] UKSC 48, and in particular paragraph 70. The Court said this,

*"In conclusion the status and application of the Rule in **Browne -v- Dunne** and the other case which I have discussed summarised in the following propositions,*

*(i) the general rule in civil cases as stated in **Phipson 20th Edition (para 12.12)** is that a party is required to challenge by cross-examination the evidence of any witness of the opposing party on a material point which he or she wishes to submit to the Court should not be accepted. That rule extends to both witnesses as to fact and expert witnesses.*

(ii) In an adversarial system of justice the purpose of a rule is to make sure that the trial is fair.

(iii) The rationale of the rule, i.e. preserving the fairness of the trial, includes fairness to the party who has adduced the evidence of the impugned witness,

(iv) Maintaining the fairness of the trial includes fairness to the witness whose evidence is being impugned whether on the basis of dishonesty and accuracy or other inadequacy.

(v) Maintaining such fairness also includes enabling the Judge to make a proper assessment of all the evidence to achieve justice in the cause. The rule is directed to the integrity of the Court process itself.

(vi) Cross-examination gives the witness the opportunity to explain or clarify his or her evidence. That opportunity is particularly important when the opposing party intends to accuse the witness of dishonesty but there is no principal basis for confining the rules to cases of dishonesty.

(vii) The rule should not be applied rigidly, it is not an inflexible rule and there is bound to be some relaxation of the rule as the current edition of ***Phipson*** *recognises in paragraph 12.12, in sub-paragraphs which follow those which I have quoted in paragraph 42 above. It's application depends on the circumstances of the case as the criterion is the overall fairness of the trial, plus where it would be disproportionate to cross-examine at length or where, as in* ***Chen -v- Ng****, the trial Judge had set a limit on the time for cross-examination, those circumstances would be relevant considerations in the Court decision on the application of the rule."*

Time Limits

113 I now turn to time limits and the Tribunal's jurisdiction.

114 I deal first of all with the time limit relating to the discrimination claim. Section 123 of the Equality Act 2010 provides the proceedings may not be brought after the end of a period of 3 months starting with the date of the act to which the complaint relates or such other period as the Employment Tribunal thinks just and equitable. Section 123(3) provides that conduct extending over a period is to be treated as done at the end of the period.

115 I refer to the decision in ***Abertawe Bro Morgannwg Unit Health Board -v- Morgan*** [2018] ICR 1194. In ***Abertawe*** Lord Justice Leggatt had said this, *"18. First it is plain from the language used ("such other period as the Employment Tribunal thinks just and equitable) that Parliament has chosen to give the Employment Tribunal the widest possible discretion unlike Section 33 of the Limitation Act 1980, Section 123(1) of the Equality Act does not specify any list of factors to which the Tribunal is instructed to have regard and it would be wrong in these circumstances to put a gloss on the words of the provision or to interpret it as if it contains such a list. Thus, although it has been suggested that it may be useful for a Tribunal in exercising its discretion to consider the list of factors specified in Section 33 of the Limitation Act (see British Coal Corpn v Keeble [1997] IRLR 336) the Court of Appeal has made it clear that the Tribunal is not required to go through such a list, the only requirement being that it does not leave a significant factor out of account: see Southwark London Borough Council v Afolabi [2003] ICR 800, para 33. The position is analogous to that where a Court or Tribunal is exercising a similarly worded discretion to extend the time and for bringing proceedings under Section 7(5) of Human Rights Act 1998: see Dunn v Parole Board [2009] 1 WLR 728, PARAS 30-32, 43, 48; and Rabone v Pennine Care NHS Trust [2012] 2 AC 72, para 75.*

19. That said, factors which are almost always relevant to consider when exercising any discretion whether to extend time are (a) the length of and reasons for the delay and (b) whether the delay has prejudiced the Respondent, (for example by preventing or inhibiting it from investigating the claim while matters were fresh).

20. The second point to note is that because of the width of the discretion given to the Employment Tribunal to proceed in accordance with what it considers just and equitable, there is very limited scope for challenging the Tribunals exercise of its discretion on an appeal. It is axiomatic that an Appellate Court or Tribunal should not substitute its own view of what is just and equitable for that of a Tribunal charged with a decision. It should only disturb the Tribunals decision the Tribunal has aired in principle, for example by failing to have regard to a factor which is plainly relevant and significant, or by giving significant weight to a factor which is plainly irrelevant, or if a Tribunals conclusion is outside the very wide ambit within which different views may reasonably be taken about what is just and equitable: see Bexley Community Centre (trading as Leisure Link) v Robertson [2003] IRLR 434, para 24."

116 As for time limits and my jurisdiction in relation to the claim for holiday pay the test is different. Such a claim must be presented within 3 months of the effective date of termination, extended in a variety of ways by the requirement to obtain an Early Conciliation Certificate from ACAS before filing a claim. What the extension is depends on when the notification given by the Claimant and when the Certificate is issued. Time may be extended for such further time as is reasonable but only if it was not reasonably practicable for the claim to have been filed in time.

117 General guidance for the parties about the approach to the Tribunal in such cases is the test for extending time has two limbs to it but both of which much be satisfied before the Tribunal will extend time.

118 First, the Claimant must satisfy the Tribunal that it was not reasonably practicable for the complaint to be presented before the end of the 3 month primary time limit, and if the Claimant clears that first hurdle she must also show that the time which elapsed after the expiry of the 3 month time limit before the claim was in fact presented was itself a reasonable period. Hence, even if the Tribunal is satisfied that it was not reasonably practicable for the claim to be presented within the 3-month time limit, if the period of time which elapsed after the expiry of the time limit was longer than was reasonable in the circumstances of the case no extension of time will be granted.

119 As regards the first limb of the test, it is quite difficult to persuade a Tribunal that it was not reasonably practicable to bring a claim in time. A Tribunal will tend to focus on the practical hurdles faced by the Claimant rather than any subjective difficulties such as lack of knowledge of the law, an ongoing relationship with the employer, or the fact that criminal proceedings are still pending. The principles to which I have had regard are those set out in Madam Justice Edie's Judgment in ***Paczkowski -v- Sieradzka*** (J**urisdictional points: Extension of time: reasonably practicable) [2016] UKEAT 0111 16 1907**.

Analysis and Conclusions

120 Addressing each issue in turn, the Tribunal has carried out an analysis of the facts and, applying the legal framework, has reached the following conclusions.

121 I have produced and then considered each issue in turn.

Jurisdiction (Equality Act 2010 claims)

"3. Given the Claimant contacted ACAS on 4 April 2024 were the Claimant's race discrimination claims based on conduct (whether acts, omissions, failures to act) which occurred on or before 4 January 2024 brought out of time?

4. If yes, did that conduct form conduct extending over a period in respect of which the Claimant made a timely claim at the end of that period?

5. If not, is it just and equitable to extend time to allow the Tribunal to consider the claim?"

122 The Claimant's concerns regarding the grievance procedure did not form part of the Claimant's claim of direct race discrimination. The date from which time starts to run is, at the latest, 13 October 2023. This means that the Claimant had until 12 January 2024 in which to contact ACAS and/or issue proceedings, although issuing proceedings without referring the matter to ACAS may have caused its own difficulties. In any event the Claimant failed to do so.

123 The Claimant says she failed to do so because she believed she was obliged to exhaust her internal grievance first. However, I have already found that, even if she did not realise her mistake before, she should certainly have done so by 9 February 2024 when she completed the form requesting her union, PCS, to provide her with advice. The form contains clear advice that internal grievances do not extend the 3-month limitation period.

124 It also does not explain why the Claimant delayed contacting ACAS or issuing proceedings once she was sent the grievance outcome letter on 11 January 2024; the suggestion that she was exploring whether she could appeal the grievance outcome does not hold any merit.

125 Consequently, I am satisfied that the Claimant's claim of direct race discrimination is out of time. However, I have a wide discretion when determining whether it would be just and equitable to extend time. I have considered carefully the points made by Mr Tinnion in his written submissions but I also take account of the guidance to be found in the Judgment of Lord Justice Leggatt in the ***Abertawe*** case. I am not satisfied that the delay has caused prejudice to the Respondent in presenting its case and, in fairness to Mr Tinnion, he has quite properly accepted that this is so.

126 Whilst finely balanced, I have decided to exercise my discretion in favour of the Claimant by extending the time for her to present her claim to 7 April 2024.

127 I turn to the next issue, namely whether I have jurisdiction to consider the holiday claim or is that claim out of time. The List of Issues says as follows:

Jurisdiction (Holiday pay claim)

a. "On 13 October 2023 the Claimant's employment terminated. On 4 April 2024 the Claimant contacted ACAS on 5 April 2024 ACAS issued an Early Conciliation Certificate. On 7 April 2024 the Claimant presented her ET1.

b. What was the date on which the Respondent was due to pay the Claimant any outstanding holiday pay out to her?

c. within 3 months of that date:

(i) did the Claimant present her ET1?

(ii) did the Claimant contact ACAS thereby extending the time she had to timely present and ET1 bringing her holiday pay claim?

d. if she did not, was it reasonably practicable for the Claimant to have presented her holiday pay claim within 3 months of that date?

e. If it was not reasonably practicable did the Claimant present her holiday pay claim within such further period as the Tribunal considers reasonable.

128 I must approach my deliberations in two stages: first, I must satisfy myself that it was not reasonably practicable for the holiday claim to be presented before the end of the 3 month primary time limit, and secondly, if I am so satisfied, whether the time that elapsed after the expiry of the 3 month time limit and the date on which the claim was presented was reasonable.

129 It was not disputed by the Claimant that time in relation to her holiday claim began to run on 31 October 2023, which was the date on which any outstanding sums owing to the Claimant could and should have been paid. That means by 13 January 2024, the Claimant should have referred her claim to ACAS or issued proceedings; she did neither. Neither of her documents submitted at the close of the evidence make any reference to the reasons why it was not reasonably practicable for her to do so.

130 I am satisfied that time limits as a topic was in the mind of the Claimant as, in relation to her claim of direct race discrimination, she argued that she was unable to issue proceedings until the outcome of her grievance was known. Also, the documents she completed for her union made reference to time limits.

131 Finally, her holiday claim did not form part of her grievance and so this cannot be relied on as a reason for any delay.

132 I have also taken account of how the Claimant has prepared for, and conducted herself during, this hearing. She has shown considerable resilience and insight and has also expressed in writing her understanding of the legal principles that apply.

133 The burden is on the Claimant to satisfy me that it was not reasonably practicable to present her claim or refer the matter to ACAS within the primary limitation period of 3 months less one day, namely 30 January 2024.

134 In my judgment, she has failed to do so.

135 Her suggestion that she was not in possession of relevant documents enabling her to formulate her claim had not changed as at 7 April 2024, but she still managed to lodge her claim at that time. Consequently, I do not have jurisdiction to consider her claims for holiday pay or flexi and those claims are dismissed. Even had I found that it was not reasonably practicable for her to do so, I would have found that, in failing to lodge her claim for a further 10 weeks, the Claimant failed to lodge her claim or refer the matter to ACAS within a reasonable time thereafter.

136 I now turn to the issues relating to the Claimant's claim of direct race discrimination. I would wish to start by making the following preliminary remarks which are of general application.

137 The burden of proof initially rests with the Claimant to establish, on the balance of probabilities, facts which would enable me to conclude in the absence of any other explanation that the Respondent had treated the Claimant less favourably than others and that the less favourable treatment was because of her race.

138 It is a serious matter to allege that someone has subjected another to less favourable treatment on the grounds of that person's race.

139 Whilst there is guidance to be found in the Supreme Court decision in 2023 in the case of ***Tui UK Limited -v- Morgan*** that I have outlined, as a matter of natural fairness, a person who is the subject of such an accusation has the right to have such an allegation put to them so that they have the opportunity to respond. Despite the Claimant being reminded of this at the start, and at the conclusion, of the evidence of each witness called on behalf of the Respondent, the Claimant singularly failed to do so and I consider this failure to be material.

140 I turn to the comparators put forward by the Claimant, namely Diane Taylor and Beata Baranska. It is a requirement under Section 23 of the Equality Act that there must not be a material difference between the Claimant's circumstances and that of her chosen comparator. I am satisfied that Ms Baranska falls into that category. She held the same position as the Claimant at the Respondent and she started her employment in June 2023 with the Claimant starting in April 2023. They were therefore both new in post and both required training in their new roles.

141 The same cannot be said for Ms Taylor in respect of issues 6(a) and (b). Whilst holding the same position as an EO, that is the extent to which her circumstances were similar or the same as that of the Claimant.

142 Ms Taylor, against whom the Claimant made no complaint, had worked as an EO in DSO from 2018. She was therefore extremely experienced in the role.

143 In relation to paragraphs 6(a) and (b) of the List of Issues, it was Ms Taylor who carried out the training and was one of the persons who gave support to the Claimant to enable her to complete the tasks expected of her.

144 Turning to the issues I am required to determine in relation to the Claimant's claim of direct race discrimination, my conclusions are as follows:

6. "Did the Respondent engage in the following conduct

(a) during her period of employment 1 April to 13 October 2023 the Respondent did not give the Claimant adequate training or support to enable her to complete the following tasks key to her job as an Executive Officer in the Directors Support Office

i. Ministerial correspondence log and FSA"

145 With regard to this issue, I have found as a fact that Ms Taylor provided training to the Claimant on how to deal with the Ministerial correspondence log and the Food Standards Agency. Indeed, the Claimant accepted in the course of her oral evidence that this was so, nor did she challenge Ms Taylor by suggesting that her training in respect of those tasks was inadequate.

146 I am also satisfied that the exchanges of correspondence between the Claimant and Ms Taylor showed that Ms Taylor was always receptive to requests for assistance and that she provided that help willingly and promptly.

147 Finally, the Claimant accepted that if she needed any additional training, she did not ask for it. I am satisfied that had she done so, such training would have been forthcoming. The Claimant's approach to working within the team may have affected her preparedness to ask for more help.

148 Further, when considering her situation compared to that of Ms Baranska, there was no evidence to support a conclusion that the Claimant was treated less favourably than Ms Baranska with regard to the level of training and support they both received.

149 Finally, it was never put by the Claimant to any of the Respondent's witnesses that, by comparison with Ms Baranska, the Claimant received inadequate training and the reason for this was because she was black and/or of African origin.

150 I am satisfied that the Claimant has failed to establish, on the balance of probabilities, facts which would enable me to conclude in the absence of any other explanation that the Respondent had treated the Claimant less favourably than others let alone less favourable treatment on the basis of her race.

151 Even had she been able to do so, I am satisfied that she was provided with adequate training and support.

6. "Did the Respondent engage in the following conduct,

b. During her period of employment the Respondent deliberately refused to show the Claimant processes relating to the handling of mailboxes"

152 Again, the Claimant has fallen substantially short of establishing that the Respondent deliberately, and I emphasize that word, refused to show the Claimant processes relating to the handling of mailboxes.

153 When giving her evidence, this appears to relate to when the Claimant first started and a difficult working relationship developed between the Claimant and the temporary EO, Heidi Reiser. However, this only reflected the situation for the first 3 months of the Claimant's employment at which time Ms Reiser left. The Claimant had not made any allegation of discrimination against Ms Reiser. I repeat my conclusions as set out under paragraph 6(a) above regarding the training and support from Ms Taylor. Furthermore, the Claimant worked closely with the CEO, Mrs Seager, meeting with her regularly each week and she had responsibility to manage Mrs Seager's mailbox and calendar. Ms Taylor had also showed the Claimant how to go through the shared mailbox.

154 By reference to her only real comparator, Ms Baranska, there was no evidence produced by the Claimant that Ms Baranska received additional or different training and support in this activity compared with the Claimant.

155 Finally, the Claimant never put to any of the Respondent's witnesses that she was treated less favourably than either Ms Taylor or Ms Baranska and that this was on the grounds of race.

156 I am satisfied that the Claimant has failed to establish, on the balance of probabilities, facts which would enable me to conclude in the absence of any other explanation that the Respondent had treated the Claimant less favourably than others let alone less favourable treatment on the basis of her race.

157 Furthermore, I repeat my findings that the Claimant received training from Ms Taylor and support from Mrs Seager.

"6. Did the Respondent engage in the following conduct:

(c). "on the following date the Claimant requested one on one meetings with her line manager but these never occurred."

i. on 12 July 2023 the Claimant asked Jackie Curtis for a catch up to resolve issues with Beata Baranska via a Teams chat.

ii. on 8 September 2023 via an email to Jacqueline Curtis.

iii. from 1 April to 25 August 2023 the Claimant did not have any line management meetings, (her first meeting was on 25 August 2023 after her return to work from sick leave.)

158 As for paragraph (c)(i), as at 12 July 2023, Ms Curtis had only very recently taken up her role at the Respondent. I refer to my findings regarding the chronology and reasons why one-to-one meetings were not arranged. However, there was no evidence that either Ms Taylor or Ms Baranska requested and attended a one-to-one meeting at that time, nor was it suggested by the Claimant that any failure to hold a one-to-one meeting was because of her being black and/or of African origin.

159 With regard to paragraph (c)(ii), Ms Clarke confirmed in writing on 5 September 2023 that she was in the process of arranging one-to-one meetings described as weekly catch ups, asking the Claimant to remind her of the days the Claimant was in the office so that the meetings could be in person or otherwise remotely.

160 Following that email the Claimant did not respond to the question about the best days on which such meetings could take place, but in her email of 7 September 2023, the Claimant asked about other matters such as moving to another team before any catch ups could be arranged. Then, before any progress could be made, on 13 September 2023, the Claimant resigned.

161 The Claimant was not able to establish that this represented unfavourable treatment, even less that it represented less favourable treatment compared to Ms Taylor and Ms Baranska, both of whom confirmed that they had not had one-to-one meetings with Ms Curtis.

162 Finally, at no stage did the Claimant suggest or put to any of the Respondent's witnesses that such treatment as she alleged was as a result of her being black and/or of African origin.

163 With regard to 6(c)(iii), I found as a fact that the return-to-work meeting took place on 23 August 2023 and not 25 August 2023 as suggested by the

Claimant. It has been accepted that the Claimant did not have any line management meetings, first, because her initial line manager, Mike Griffiths, was overstretched and support was provided by Ms Shilling but not as a formally appointed line manager; then, following the appointment of Ms Curtis, no line management meetings took place and I have outlined the chronology and rationale for those meetings not taking place, namely a combination of the Claimant being on leave, then sickness absence, and Ms Curtis being new to the role with a busy schedule.

164 Crucially, the Claimant has not established that, by comparison, line management meetings had taken place with Ms Taylor and Ms Baranska, let alone that such meetings had taken place and the reason why no meetings had taken place with the Claimant was as a result of her being black and/or of African origin.

"6. Did the Respondent engage in the following conduct:

(d) "on the following dates the Respondents CEO, Abi Seager, praised the work of the following white individuals but not the Claimant

i. Monday 26 June 2023 "*Beata [Baranska] is very good [at] making out where things go, you should ask her sometimes*" (in Abi Seager's office) and

ii. Wednesday 5 July 2023 *"Beata [Baranska] is doing a good job with Mike's (COO) inbox, before you take him on* (at diary catch up meeting with Abi Seager)."

165 Mrs Seager did not dispute that she may very well have used words of that sort on the two occasions specified by the Claimant. I am satisfied that the Claimant is wrong to conclude that, in Mrs Seager making such positive remarks about Ms Baranska's performance in her role, this automatically meant that Mrs Seager had concerns regarding the Claimant's performance. I consider such remarks being made are normal in a working environment and they were also made for a specific purpose, i.e. to offer support, particularly on 5 July 2023 when Mrs Seager was referring to the management of Mike Griffiths's mailbox.

166 Finally, and once again, despite being reminded to do so, the Claimant did not put to Mrs Seager that making such remarks amounted to less favourable treatment on the grounds the Claimant is black and/or of African origin.

167 I am satisfied that the Claimant has failed to establish, on the balance of probabilities, facts which would enable me to conclude in the absence of any other explanation that the Respondent had treated the Claimant less favourably than others let alone less favourable treatment on the basis of her race.

168 With regard to paragraphs 6(e) and (g), I do not consider I need to make any findings in that, throughout the hearing, the Claimant stated that her concerns with the grievance procedure related more to a procedural irregularity. The Claimant made it clear that it did not form part of her direct race discrimination claim and that she did not make any allegation against Sue Quinney regarding her discrimination claim.

169 Turning to paragraph 6(f) it is difficult to discern any basis on which this can amount to a direct race discrimination claim if, indeed, a grievance had been made against the Claimant. In the absence of any detail about the grievance, there is no evidence at all that this amounts to unfavourable treatment compared to Ms Taylor and Ms Baranska, let alone that such treatment was on the grounds of race.

170 In any event, the Claimant had not produced any evidence apart from one comment in correspondence from her union that a grievance had been made against her and all the Respondent's witnesses confirmed they had no knowledge of such a grievance.

171 For all these reasons, I have found, on the balance of probabilities, that no such grievance had been made against the Claimant.

172 Finally, for all the reasons I have outlined above I have concluded that the Claimant has failed to persuade me to the necessary standard that the Respondent has contravened Section 13 of the Equality Act.

173 Having listened to the Respondents witnesses give evidence, there was no basis on which an inference can be drawn that they were subjectively discriminatory in their treatment of the Claimant.

174 The largely unchallenged evidence of the Respondent supports a conclusion that any conduct of which she complains did not amount to less favourable treatment on the grounds of race.

175 Consequently, the Claimant's claim of direct race discrimination is not well-founded and is dismissed.

176 With regard to the holiday pay claim, I have found that I do not have jurisdiction to consider that claim as it is out of time and is therefore dismissed. In the circumstances, there is no requirement for me to consider the issues set out at paragraphs 9 to 13 of the list of issues.

Employment Judge Havard
Dated: 12 December 2025

REASONS SENT TO THE PARTIES ON

8TH December 2025

O.Miranda
FOR THE SECRETARY OF EMPLOYMENT TRIBUNALS

EMPLOYMENT TRIBUNALS

Claimant:	**Mrs Lillian Chapman**	
Respondent:	**The Veterinary Medicines Directorate**	
Heard at:	**London South via CVP**	**On: 27 – 31 October 2025**
Before:	**Employment Judge R Havard**	

Representation:
Claimant: In person
Respondent: Mr A Tinnion, Counsel

JUDGMENT having been sent to the parties on 12 November 2025 and reasons having been requested by the Claimant in accordance with Rule 60 of the Employment Tribunal Rules of Procedure 2024.

REASONS

Background

1 By a claim form submitted to the Employment Tribunal on 7 April 2024 the Claimant brought complaints of constructive unfair dismissal; direct race discrimination and unpaid holiday pay.

2 Subsequently, on the basis that the Claimant had not been employed by the Respondent for a continuous period of two years, her claim of constructive

unfair dismissal was struck out by an Order of the Tribunal dated 27 January 2025.

3 Consequently, this hearing was to determine the Claimant's claims of direct discrimination on the grounds of race and her holiday pay claim.

4 The Grounds of Resistance on which the Respondent relies are set out in an Amended Response dated 3 June 2025. The Respondent was given leave to amend its response at a Case Management Hearing held on 17 April 2025 at which, at the same time, a List of Issues was discussed, following clarification of certain aspects of the Claimant's claims.

List of Issues

5 With regard to the List of Issues, whilst a draft list was prepared in advance of the Case Management Hearing, it was not until the morning of the first day of this hearing that, following further discussion between the parties and myself, a list was finally agreed. The List of Issues is appended to this document, and they are also reproduced in the section of this judgment when I provide my analysis and conclusions.

Evidence

6 In terms of evidence, I heard from the Claimant.

7 For the Respondent, I heard evidence from the following, in the following order. The job titles are those held by the witnesses at the material time:

(1) Natalie Shilling, who at the time the Claimant commenced employment at the Respondent held a Continuous Improvement role in the Business Support Division and then from 1 July 2023 became Head of People Services;

(2) Diane Taylor, an Executive Officer in the Director's Support Office;

(3) Abigail Seager, Chief Executive Officer of the Respondent;

(4) Beata Baranska, Executive Officer in the Director's Support Office;

(5) Jacqueline Curtis, who from July 2023 became Head of Corporate Services within the Business Support Division of the Respondent, and finally

(6) Sue Quinney, Veterinary Head of the Regulatory Affairs of the Animal and Plant Agency and Executive Agency of Defra.

8 All those who gave oral evidence had provided written witness statements.

9 An agreed bundle had been prepared by the Respondent and submitted together with an index; the bundle ran to 643 pages. Save where is indicated to the contrary, all page references in this document refer to this bundle.

10 As for submissions, in advance of the hearing, the Claimant had provided three documents entitled: “opening legal submissions” running to 7 pages; “comprehensive aid to memory” running to 11 pages, and “comprehensive respondent inconsistencies and comparators” running to 6 pages.

11 At the conclusion of the evidence, Mr Tinnion provided written closing submissions which is a document running to 12 pages which he supplemented with a Chronology and an outline of the law together with brief oral submissions.

12 Finally, the Claimant made oral closing submissions to the Tribunal and submitted two further documents entitled “Claimant’s Closing Submissions” running to 4 pages and a “Closing Addendum” running to 2 pages.

Findings of Fact

13 When reaching my findings of fact, it is important to bear in mind that it is not possible for me to rehearse every single piece of the evidence that I have heard and read during the course of this hearing. I may also make findings of fact which do not bear directly on the issues to be determined but, in my judgement, form important background.

14 Before I set out my findings of fact, I wish to comment on the quality of the oral evidence I have heard.

15 In many ways, I concluded that there were not many material differences between the Claimant and the Respondent’s witnesses regarding the events that unfolded following the Claimant commencing her role at the Respondent and what was said either verbally or in writing. Indeed, there is considerable written evidence in the form of emails or Teams messages and other similar-type documents which formed a part of the background, the strict content of which cannot be disputed.

16 Where relevant, there is also a substantial level of agreement about what was actually said, for example the conversation between the Claimant and Mrs Seager regarding what Mrs Seager said about Ms Baranska and about which I will say more in due course.

17 Where there are any disputes as to the facts, it did not appear to me that such disputes necessarily went to the heart of what these claims were all about.

18 I concluded that the Claimant provided her account in a way which reflected what she believed to have happened and why. Equally, I found each of the witnesses called to give evidence on behalf of the Respondent to be both credible and reliable. Their oral evidence was consistent with the documentary evidence contained within the bundle. Indeed, much of their evidence contained in their witness statements was not challenged by the Claimant. Where they were unable to answer a question because either they could not remember or it was outwith their knowledge, they readily said so.

19 In conclusion, much of this case revolves around the Claimant's interpretation of what was said and what happened as opposed to substantial conflicts of evidence. Indeed, the Claimant confirmed, on more than one occasion, that this was so.

20 I now turn to my findings of fact.

21 The Respondent is an Executive Agency within the Department of Environment, Food and Rural Affairs, better known as Defra. It was described by Ms Quinney as a relatively small agency and its role is to protect animal health, public health and the environment. The Respondent's Head Office is in Addlestone in Surrey. The location of the Respondent's Head Office became an issue of some importance.

22 On 7 December 2021, the Claimant commenced employment with Defra as a Personal Assistant, but in a different agency to the Respondent. The Claimant, who is black and of African origin, resides in Portsmouth. The Claimant applied for a role of Executive Officer in the Directors' Support Office ("DSO") of the Respondent. This was in early 2023. As part of the recruitment process, the Claimant had to participate in an interview. Ms Natalie Shilling was on the panel that interviewed the Claimant. Ms Shilling supported the Claimant's appointment to the role and the Claimant commenced her job as an Executive Officer in the DSO with effect from 1 April 2023, her first day in the office being on 3 April 2023.

23 When the Claimant commenced her role, the other EOs in DSO were Diane Taylor, who was someone of considerable experience having worked in that role since 2018, and a temporary EO, Heidi Reiser.

24 At that time there was no Higher Executive Officer in the DSO to provide line management and so line management of the EOs was picked up by the Chief Operating Officer ("COO"), Mike Griffiths. However, whilst that was the intention, the reality was that Mr Griffiths was too busy to fulfil this role effectively and so, whilst not formally appointed as line manager, Ms Shilling provided as much support and guidance as she could.

25 On 4 April 2023, Ms Taylor assisted the Claimant in her induction, showing her around the office. It became apparent that the Claimant was most concerned at the fact that she would have to attend the office on two days per week as she anticipated that she would only have to attend one day a week.

26 I accepted the Claimant's evidence and found that, depending on traffic conditions, her round trip from Portsmouth would take between 2.5 and 4 hours.

27 The Claimant accepted that, before accepting the role, she had neglected to ask how often she would be expected to travel to the office. Her unhappiness with her need to commute more than once a week was brought to the attention of Mike Griffiths who enquired whether the Claimant wished to see whether it might be possible to revert to her previous role, but this was not progressed. However, Mrs Seager believed that this had an adverse effect on the Claimant's approach to her work.

28 Ms Reiser continued as a temporary EO for the first three months the Claimant worked at the Respondent. It became clear that the relationship between them quickly became difficult and strained, although it is worth pointing out that none of the complaints on which the Claimant relies relate specifically to Ms Reiser.

29 In June 2023, Ms Beata Baranska commenced her employment as an EO in the DSO alongside the Claimant and Ms Taylor. Before the Claimant joined the DSO, Ms Taylor was primarily responsible for supporting the Chief Executive Officer, Mrs Seager. When the Claimant and Ms Baranska were in situ, the Claimant took on primary responsibility for Mrs Seager with Ms Taylor responsible for the Deputy CEO and Ms Baranska responsible for the COO, Mike Griffiths.

30 However, whilst this was their primary responsibility, it was also an important part of their role to cover the tasks of the other EOs if they were on leave or away through ill health. As for the role itself, the day-to-day responsibilities of EOs in the DSO team involved monitoring and organizing directors' calendars,

arranging and assisting with meetings, which would include taking and then circulating minutes, and monitoring the shared DSO email inbox.

31 Mrs Seager stated, and I find, that she operated an open-door policy and she also held the role of Respect at Work Champion within Defra. Mrs Seager confirmed that, for the DSO to operate effectively, a commitment to teamwork was essential. This was a view expressed by all witnesses who gave evidence on behalf of the Respondent and this was consistent with the fact that the EOs would have shared access to the Directors' calendars and the DSO mailbox.

32 With regard to the Claimant being trained in her new role, I am satisfied that, whilst her relationship with Ms Reiser proved to be difficult, the same could not be said of the Claimant's relationship with Ms Taylor and the level of training and support the Claimant received from her. Indeed, in fairness to the Claimant, she readily accepted in her oral evidence that Ms Taylor had been supportive of her and provided her with training. This is also consistent with the exchanges of emails and messages between them which started in April 2023 and continued through to September 2023 shortly before the Claimant resigned from her role.

33 I refer to two examples, the first on 28 June 2023 (page 203) and the second on 6 September 2023 (page 259). In relation to the example on 28 June 2023, the email from Diane Taylor to both the Claimant and Ms Baranska said as follows:

"Hi both, I think I touched on this the other day but a good example. Anything HR including recruitment is now only discussed at either the monthly HRC or weekly HR lite meetings and Andy Saunders (might be Andrew in the address book) deals with collating agenda items for HR, (HR agendas are sent out to Abi, Gavin and Mike as private so we cannot even see the agenda).

If you get a request from something HR related come in for EMB just reply copying in Andy S and advise this is now only discussed at HR meetings and Andy (copied in) is responsible for the agenda.

By copying in Andy he can pick up and take forward - job done.

Many thanks

Diane"

34 And then on 6 September, so almost 3 months later, and indeed shortly before the Claimant's resignation, Ms Taylor wrote to the Claimant as follows, starting with the Claimant's email to Ms Taylor on 6 September at 2.12pm:

"*Hi Dianne,*

Please help, no idea.

Regards

Lillian"

35 Ms Taylor then responded at 2.25pm, so some 13 minutes later, saying:

"*Hi Lillian,*

You need reply all to Euan's email (attached) and reattach the document and say there are no authorised UK veterinary medicines that contain Phenothrin and leave it at that.

Go onto the CMS record and add Gill's email then add as the final response to close your email to the MCU.

Many thanks

Diane"

36 I am satisfied that Ms Taylor also trained the Claimant on how to complete the key tasks to her role to include dealing with requests from the Food Standards Agency, how to deal with ministerial correspondence and how to log such correspondence onto the database and a spreadsheet. I refer in particular to paragraph 13 of Ms Taylor's statement which provides detail with regard to the training on dealing with ministerial correspondence. Ms Taylor provided further explanation in the course of her oral evidence when describing the meaning of *"cleared lines"* which effectively meant "approved responses" to ministerial correspondence.

37 Ms Taylor said, and I find, that she told the Claimant that if she was not clear on how to effect a particular task she should contact Ms Taylor and she would assist. The fact that the Claimant took advantage of this offer is evidenced by the email exchanges and Teams exchanges, to include the example of the exchange on 6 September 2023. In the course of her evidence, the Claimant agreed that, in the period from 6 April 2023 to 6 September 2023, she was provided with guidance and support by Ms Taylor.

38 Whilst it was described by Ms Taylor as unstructured, I am satisfied that the Claimant received appropriate training, guidance and support from Ms Taylor.

39 I am also satisfied that the Claimant was offered guidance and support from Ms Baranska. Indeed, it was accepted by the Claimant that Ms Baranska offered support. However, the Claimant describes such unprompted offers of support from another EO who had been recruited more recently than her as *"harassment"*. However, the tone of the exchanges between the Claimant and Ms Baranska did not support such a view.

40 On 20 July 2023, the following exchange took place between Ms Baranska and the Claimant (pages 254-5):

"Morning Lillian, there are emails from [a particular individual] in DSO inbox regarding Ministerial correspondence - do you know how to do it? Let me know if you need help"

41 The Claimant replied:

"Morning B, I have just had a look would you like to action them? I have meetings to book for Abi but equally happy to que them in my list of actions for this morning"

42 Ms Baranska replied:

"Hi Lillian, sure! I will try my best - it will be my first time so if you could double check after me if I've done it correctly that would be great. I will let you know when it's done."

43 And the Claimant said:

"Perfect! I have an idea would be my second time but will have a look when it done"

44 Even though there was evidence of collaborative working, which was considered by Ms Taylor and Mrs Seager to be critical to enable the DSO to run efficiently, Mrs Seager concluded that the Claimant did not want to work as part of a team. Indeed, this was not challenged by the Claimant and was consistent with her allegation that Ms Baranska's offers of help amounted to harassment.

45 However, Mrs Seager stated that the way the DSO should function is if she, or one of the directors, needed anything to be done, they would send the request to the shared DSO mailbox for one of the EOs to pick up.

46 I accept Mrs Seager's evidence and find that in a catch up between her and the Claimant in or about mid-June 2023, the Claimant stated that if one of the other EOs picked up a task that Mrs Seager sent to the shared mailbox, she considered that this was meddling in her work. Whilst Mrs Seager explained the advantages of the shared mailbox, she recalled the Claimant saying that she did not want to work as part of a team.

47 The issue of the Claimant's approach to her role as part of a team was also highlighted by the Claimant referring to remarks made to her by Mrs Seager regarding Ms Baranska. It was stated by the Claimant that, on 26 June 2023, Mrs Seager had said to the Claimant, "*Beata is very good at making out where things go, you should ask her sometimes".* Then, on 7 July 2023, Mrs Seager said to the Claimant, *"Beata is doing a good job with Mike's inbox before you take him on"*. Mrs Seager accepted, and I find, that these comments were likely to have been made by her, not as an implied criticism of the Claimant but as a suggestion that the Claimant might like to speak to Ms Baranska for advice, for example on how to manage Mr Griffiths's inbox in Ms Baranska's absence.

48 On 3 July 2023, Ms Curtis, a Higher Executive Officer, took over line management of the DSO team.

49 On 12 July 2023 the Claimant requested a catch-up. It is worth recounting that exchange which illustrates that Ms Curtis was certainly receptive to meeting with the Claimant. The Claimant says to Ms Curtis (page 208),

"I would appreciate a catch up with you at some point tomorrow or Friday. If you are in the office today would even be better."

50 Ms Curtis replied:

"Morning Lillian, unfortunately I am not in the office today. I have a meeting with the Directors tomorrow and will then put meetings in place once there is a formal handover from Natalie to me so we can review current procedures and team working so we are all on the same page and working as a team to deliver the expectations of the Directors"

51 The Claimant replied,

"Thank you"

52 Ms Curtis said,

"Just bear with me whilst the transition takes place"

53 However, the catch up did not take place, partly due to the Claimant being away ill on 17 and 18 July 2023. Indeed, I find it had been the intention of Ms Curtis to arrange one-to-one meetings with the Claimant but she was new to the role and very busy and the Claimant was away on sick leave, then on leave, then on extended sick leave in August 2023. However, I also find that formal one-to-one meetings had also not been arranged with the other EOs either.

54 On taking up the post, Ms Curtis considered that certain members of the team were quite new and inexperienced and that the team was not working together very well or efficiently. She therefore instigated in July 2023 a *"DSO reset"*. As part of that reset, a meeting was held on 25 July 2023 and the team was told that it was decided to increase the minimum attendance in the office from 40% to 60% i.e. from two days per week to three. This was designed to develop a more collaborative, and thereby more efficient, working environment.

55 Subsequently, Ms Curtis formed the same view as Mrs Seager that the Claimant did not want to work as part of a team. Indeed, I accept Ms Curtis's evidence and find that the Claimant said to her that she avoided speaking with colleagues and did not want to have anything to do with them. This was also consistent with the evidence of Ms Baranska who stated that the Claimant did not seem to want to get to know her and preferred *"working solo"*. Indeed, once Ms Curtis informed Ms Baranska at the end of August 2023 that the Claimant found her offers of support frustrating, she refrained from doing so.

56 On 27 July 2023, the Claimant met with Ms Curtis and Mrs Seager. This was originally a regular catch-up meeting with Mrs Seager but Mrs Seager requested Ms Curtis to attend as Mrs Seager was concerned that the Claimant had not been providing her with the necessary level of support and that deadlines were not being met. The Claimant became very upset and left the meeting. Mrs Seager found the Claimant to be defensive and not receptive to what was intended to be constructive feedback. There was then an exchange of emails between the Claimant and Ms Curtis, the Claimant suggesting that she felt attacked.

57 On 27 July 2023 Mrs Seager sent the following email to the Claimant (page 364):

“Hi Lillian

I am concerned about your email reply and am writing to you to be clear about what I said, that being “we are having a moment to reconsider expectations of DSO now that Lillian and Bea have been recruited, to ensure all expectations are clear from directors to the office. It is acknowledged that currently not all expectations are being met”. The office is fast paced and there are high expectations on performance and working together as a team, possibly greater than you are used to within Defra. So far, we have given you and Bea lots of time to get to speed with the work and held back on any overloading with the full remit of the office, but now that induction is complete we need to review the complete remit.

It is normal across Civil Service that feedback is given, I understand that sometimes that is difficult to hear and as a result you may not have heard fully the words being used but I certainly did not say “you do not meet expectations”. We needed to talk today as my support needs were not being met yesterday, as per the emails and work was outstanding.

It was obvious to me from the moment you joined the call that you were unhappy, this came across in your behaviour/attitude and short answers, including when I asked you how you were. I suggested (again) that you talk to your line manager.

In our call, you were simply asked to provide the work you said you were doing ie minutes that were minimal and that you said would be complete by Wednesday latest.

In our catch ups you have expressed difficulty getting on with previous members of the team, but upon Heidi leaving and Diane returning from leave, you said the environment improved. I suggested to you that you should attend the office with the others more to build a working relationship. Today you said you avoid speaking to the team as much as possible.

You said you wanted to leave the VMD, I advised you to think on this and the range of options over the next week and discuss with Jackie on return. You could complete a stress risk assessment or have an OH referral. I do not believe any of which have been undertaken so far nor the conflicts you refer to below have been brought to anyone’s attention for addressing.

Ultimately, we want a happy workplace for all, where the team works collaboratively and delivers efficiently and effectively and I will do all I can to help achieve this.

We can talk more on this when you return from leave.

Kind regards

Abi"

58 From 28 July 2023 to 7 August 2023, the Claimant was on leave. She was then on sick leave from 8 to 22 August 2023. On 8 August 2023, Ms Curtis sent an email to the Claimant (page 230) saying

"Good morning Lillian

I am sorry to hear that you are unwell, if you want to arrange a chat at any time then just drop me an email. With regard to the doctors note, please could you forward this at your earliest convenience".

59 The Claimant replied,

"Attached is my sick off, hopefully I'll be in on Wednesday 23 August"

60 On 22 August 2023 Ms Curtis and the Claimant had the following exchange (page 234):

"Hi Lillian, Just wanted to touch base and see how you are doing. You are due to return to work tomorrow in the office, is this still the case? Thanks"

"Hi Jackie, yes, feeling better will be in tomorrow. Regards"

61 Ms Curtis said *"So glad you're feeling better and look forward to seeing you tomorrow. I will pop in a slot for us to have a catch up".*

62 On 23 August 2023 a return-to-work meeting took place and this was followed by an email to the Claimant from Ms Curtis on 25 August and it said as follows (page 370):

"Good morning Lillian

I hope you are well! Further to my email below please can you respond to my recommendations. Also I will set up the weekly catch ups from next week. Please remind me what days ordinarily you are in the office and I will endeavour to attend in person, otherwise will be via Teams".

63 This was followed by an email on Ms Curtis's return from holiday on 6 September 2023 referring to arranging catch up meetings from the following week. However, on the following day, the Claimant wrote to Ms Curtis to enquire about a change in her work responsibilities and to move to another team. Ms Curtis replied on 11 September 2023 to say that such a move was something that could be explored. She copied her email to Ms Shilling so that she could provide her input to the Claimant's request and Ms Shilling then met with Helen Chuni on 13 September 2023 to discuss the Claimant's request.

64 However, on the same day, 13 September 2023, the Claimant met with Ms Curtis and verbally indicated her intention to resign and this was confirmed in writing to Ms Curtis on 14 September. At the same time the Claimant submitted a grievance.

65 On 15 September 2023 the Claimant held a conversation with Ms Shilling and this conversation was confirmed in an email from Ms Shilling to the Claimant later that day. Ms Shilling said as follows (page 306):

"Dear Lillian

Thank you for chatting with me earlier.

We discussed the issues raised in your dispute resolution form [in other words her grievance]. We discussed the dispute resolution procedure and you said that you tried to resolve some issues informally but you hadn't raised the issue of racism with anyone at VMD. Whilst we haven't had the opportunity to try to resolve all issues informally you felt that the best way forward was via the formal procedure. I confirmed that we would be launching a full investigation using an independent investigator, i.e. not someone from within the VMD.

We agreed that you can refrain from working whilst the investigation is ongoing to minimise any stress on you and to prevent further exacerbating the situation.

I asked whether you wanted to continue with your resignation and you said yes."

66 It went on to say,

"*As your line manager is named in your dispute I will be your contact point during the investigation" and Ms Shilling goes on to say, "I also asked if there's anything we can do to additionally support you during this time e.g. OH referral but you said no. This offer stands, so if you do not think of anything please let me know.*

I'm sorry that we are in this situation, we take the allegations raised in your dispute very seriously and will ensure that they are investigated thoroughly and fairly."

67 Whilst there is reference in Ms Shilling's email to racism, it was not in dispute that this was the first occasion on which it had been mentioned. Allegations of racism were made in the grievance document against Ms Curtis, Ms Baranska and Mrs Seager but not Ms Shilling. However, the Claimant confirmed that her allegations of racism included Ms Shilling when she outlined the position at the beginning of this hearing.

68 Some arrangements were made regarding the Claimant's access to the directors' mailbox and the shared DSO mailbox. There were certain unforeseen technical issues but they were resolved. It was at this stage that Sue Quinney was appointed the Decision Manager and that Michelle Wilson would be the Investigations Manager. Whilst the Claimant expressed concern as to Ms Quinney's suitability to be the Decisions Manager, I find that Ms Quinney is based in an entirely separate executive agency within Defra and did not know anyone named or directly involved in the grievance. Further, she had not worked before with the Investigations Manager.

69 On 29 September 2023, Ms Quinney sent to the Claimant draft terms of reference. Following certain amendments being made by the Claimant to those terms of reference they were then sent to the Investigation Manager, Michelle Wilson, who was instructed to commence her investigation.

70 It was alleged by the Claimant that there was a delay in progressing the grievance to a conclusion and that such delay was deliberate in order to delay the Claimant issuing her claim at the Tribunal. Whilst I find there was a level of delay, this was not deliberate. I found Ms Quinney to be a credible witness and I accepted the reason she gave for the delay, namely, and primarily, due to illness on the part of Ms Wilson.

71 On 18 December 2023, Ms Wilson sent her report to Ms Quinney, who, after some leave over Christmas, reviewed the report on 28 December 2023 and liaised further with Ms Thomas on the same day and on 29 December 2023.

72 On 2 January 2024, the Claimant submitted some medical evidence to Ms Quinney who responded to the Claimant on the following day that she was working on her decision and would submit it as soon as possible.

73 On 4 January 2024, the Claimant responded saying, *"I'm happy for you to send it to me. I can discuss with Leah later if I need to. Regardless of the outcome I'm happy that I got a neutral platform to say my side."*

74 On 11 January 2024, following some last-minute IT issues and some final enquiries having been made, Ms Quinney forwarded her grievance outcome letter confirming that the Claimant's grievance was not upheld (page 495). In the same letter, Ms Quinney confirmed that as the Claimant had left the Respondent she did not have a right of appeal. Whilst the Claimant stated that she had consulted her union and that she requested Ms Quinney to reconsider her decision, Ms Quinney confirmed in her letter of 25 January 2024 (page 522) that there was no right of appeal.

75 On 4 April 2024 the Claimant notified ACAS and ACAS issued its Certificate on 5 April 2024 (page 11). The claim form was filed on 7 April 2024.

76 It was stated by the Claimant that she did not issue proceedings at an earlier date because she believed it was necessary to exhaust the internal grievance procedure before it was possible for her to do so.

77 On 9 February 2024, the Claimant submitted a document to her union, PCS, seeking advice on the merits of her claim (pages 26 to 38). At sections 5 and 10 of that form it makes reference to time limits within which the claim should be lodged with the Tribunal. In particular, section 5 states *"….employers internal processes such as grievances or dismissal appeals do not extend the 3 months less 1 day limitation period".* I am not persuaded by the Claimant's evidence that she did not read the text on the form when she completed it, and even if she did not, she should have done so and the notice provided by PCS regarding time limits is clear.

78 Unusually, the hearing bundle includes a letter of advice from the PCS dated 4 April 2024 and the Claimant lodged her claim form 3 days later.

79 Neither the grievance, nor the request made by the Claimant to her union, included any reference to the Claimant's holiday claim.

80 Finally, and importantly, the Claimant confirmed, and I therefore find, that the grievance procedure and her concerns regarding the process that was followed does not form part of her claim of direct race discrimination.

81 There are five residual matters on which I need to make findings of fact; although not all of them feature in the List of Issues that I am required to consider, I believe they are important background.

82 Those residual matters concern: first, issues relating to the Claimant's desk; secondly, the allegation that Ms Shilling humiliated the Claimant by meeting with her in the church car park to return the Claimant's belongings; thirdly, that the Respondent did not inform the Claimant that colleagues had raised a grievance against her; fourth, emails from Ms Baranska to the Claimant being copied to Ms Curtis, and fifth, Ms Baranska's conduct towards the Claimant at a meeting on 12 September 2023.

83 In respect of the desk, it was suggested by the Claimant that, on 7 July 2023, Ms Baranska was endeavouring to engineer a situation where she took over the Claimant's desk. The Claimant suggested that her desk was *"targeted".* Ms Seager confirmed that she recalled the discussion about desks which is consistent with the account provided by Ms Baranska. The point made by Ms Baranska was that the desk at which the Claimant sat faced the door into the room through which visitors would arrive. Ms Baranska stated that as she was in the office more than anyone else it may be an idea for her to sit at that desk. However, the Claimant did not wish to move and exchanged messages with Ms Baranska on 6 July 2023. The Claimant said to Ms Baranska (page 247):

"Hi both, On sitting arrangements can also add that I'm happy where I'm sitting and I don't really want to have to move. Thanks",

84 Ms Baranska replied,

"Oh that's actually something I wanted to talk about on Monday as Abi suggested to me to sit on your desk as I'm more often in the office. However, I'm happy to use the other desk on Monday's when we're all in and on other days use the front desk. It doesn't really matter for me where I sit as long as it's not back to the doors, so I'm easy."

85 Mrs Seager stated that, as far as she was concerned, the matter was resolved and that the Claimant would sit at her usual desk when she was in the office.

86 Having listened to the evidence, and having read the exchange of emails, I prefer the account provided by Ms Baranska and Mrs Seager and reject the Claimant's suggestion that there was a plan to move her from her desk and that her desk was, as she described it, "targeted".

87 As for the arrangements for the Claimant to return her IT equipment and security passes, it was claimed by the Claimant that she was humiliated as she was required to meet Ms Shilling in the church car park. Ms Shilling confirmed

that there were a number of car parks at or near the site of the head office and a number of people often used the car park at the church to avoid going through security. In her email to Ms Shilling of 4 October 2024 (page 410) the Claimant says that she was happy to meet someone in the parking lot to drop off the items and later she responded to Ms Shilling saying that she would text her *"when I get to the parking".*

88 On 12 October 2024 Ms Shilling sent an email saying "*Will you be in the church car park or a VMD one?"* (page 412) and the Claimant replied saying *"I will be at the church (did not realise I could) and easier for me to drop off my security passes"*. It was therefore the Claimant who chose to park in the church car park.

89 It had been claimed by the Claimant that she had not been informed that colleagues had lodged a grievance against her. The only evidence that a grievance had been made against her was from her union. This was in a letter from PCS dated 4 April 2023 (page 532) in which it is said that it was understood that the Claimant had lodged a grievance *"but was also the subject of a separate grievance complaint by her"*. However, no further evidence had been provided by the Claimant whether from herself or from her union and all the witnesses called to give evidence on behalf of the Respondent had no knowledge of any grievance being lodged against the Claimant, I therefore find, on the balance of probabilities, that no grievance had been lodged against the Claimant.

90 As for the practice of Ms Baranska copying her emails to the Claimant to Ms Curtis, it was readily accepted by Ms Baranska that she did so but her motive for doing so was to keep her line manager informed of what was happening. I accepted Ms Curtis's evidence which was consistent with that of Ms Baranska when she stated that it was normal for her to be copied in on emails by all members of her teams. She also was of the view that, at the time, both the Claimant and Ms Baranska were still relatively new to their roles and so she wished to maintain oversight which I find to be a perfectly plausible explanation. I therefore do not accept the Claimant's assertion that Ms Baranska copied her emails to the Claimant to Ms Curtis in order to exert pressure on her, nor do I find that the practice of copying emails to Ms Curtis as line manager was restricted to those sent by Ms Baranska to the Claimant.

91 Lastly, the Claimant referred to the conduct of Ms Baranska at a meeting on 12 September 2023 when Ms Baranska had asked for a response to an email in a meeting at which other members of the team were present and which had no bearing on the topics being discussed. The Claimant considered that this

was designed to embarrass her in front of others and she described it in her oral evidence as the best example of how she was discriminated against on the grounds of race. However, Ms Baranska stated that she had already reached out to the Claimant for a response by email on two occasions and the Claimant had failed to respond. It was a matter of some urgency as it related to a meeting the day after involving the chief executive as chair and it looked as if nothing was booked.

92 Ms Baranska agreed that calling out a colleague in this way may be undermining but she was frustrated at the Claimant's lack of response. However, whilst the Claimant suggested that this conduct, which may have been unwanted, was because she was black or of African origin it was never put to Ms Baranska that this was so and Ms Baranska confirmed in her evidence that she denied that she treated the Claimant less favourably than any of her colleagues either because of her race or for any other reason. I also noted that this incident is not included in the List of Issues I am required to determine.

93 Finally, with regard to holiday pay, in her claim form the Claimant claims an amount equivalent to 11 days accrued holiday pay. Ms Shilling sets out in detail the basis on which the Respondent had calculated the amount owed to the Claimant in relation to accrued holiday pay and flexi credit and refers to relevant documentation in the bundle to support her calculation. Her evidence was not challenged by the Claimant and I therefore find that the amount outstanding to the Claimant for flexi credit is £36.08 and accrued holiday pay amounts to £652.67.

94 The Claimant had been requested to provide her bank details to enable these amounts to be paid but in her oral evidence the Claimant confirmed that she declined to provide them and preferred to proceed to a hearing which of course she is entitled to do.

The Law

95 I now turn to the legal framework within which I must reach my decision. The basic provision in relation to direct discrimination is found in Section 13 of the Equality Act 2010 ("EqA") as follows:

(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.

96 In relation to direct race discrimination for present purposes the following are the key principles.

97 Under Section 13 there are two issues (a) less favourable treatment and (b) the reason for that less favourable treatment.

98 As set out in ***Shamoon -v- Chief Constable of the Royal Ulster Constabulary*** **[2003]** these questions need not be answered strictly sequentially. Given the treatment must be less favourable, a comparison is required and a comparator must be in the same position in all material respects as the victim save only that he or she is not a member of the protected class.

99 With regard to burden of proof, the burden of proof is set out in Section 136 of the Equality Act which provides as follows:

"(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 sub-section (2) does not apply if A shows that A did not contravene a provision.

100 The leading cases on the burden of proof pre-date the Equality Act (***Igen Limited -v- Wong*** **[2005] EWCA Civ 142** and ***Madarassy -v- Nomura International PLC*** **[2007]** EWCA Civ 33) but in ***Hewage -v- Grampian Health Board*** **[2012],** the Supreme Court approved the guidance given in ***Igen*** and ***Madarassy***.

101 By virtue of Section 136, it is for a Claimant to prove on the balance of probabilities facts from which the Tribunal could decide, absent any explanation from the Respondent, that the Respondent has discriminated against the Claimant. If the Claimant succeeds in doing so, the burden of proof shifts to the Respondent to show it did not discriminate as alleged.

102 In ***Madarassy,*** the Court of Appeal held that the burden of proof does not shift to the employer simply on the Claimant establishing a difference in status and a difference in treatment. This merely gives rise to the possibility of discrimination; something more is needed. Any inference about sub-conscious motivation has to be based on solid evidence (***South Wales Police Authority -v- Johnson [2014] EWCA Civ 73)***.

103 The "something more" required to shift the burden does not represent a significantly high hurdle. In ***Denman -v- EHRC*** **[2010] EWCA Civ 1279,** the Court of Appeal held that

"the more which is needed to create a claim requiring an answer need not be a great deal. In some instances it will be furnished by non-response or an evasive or untruthful answer to a statutory questionnaire. In other instances it may be furnished by the context in which the act has allegedly occurred".

104 There is a useful summary of the law on the shifting burden of proof in ***Field -v- Steve Pye and Co. Limited and others*** **[2022] EAT 68.**

105 HHJ Tayler put the position as follows:

44, "if having heard all of the evidence the Tribunal concludes that there is some evidence that could indicate discrimination but, nonetheless, is fully convinced that the impugned treatment was in no sense whatsoever because of a protected characteristic, it is permissible for the Employment Tribunal to reach its conclusion at the second stage only, but again it is hard to see what the advantage is. Where there is evidence that could indicate discrimination there is much to be said for properly grappling with the evidence and deciding whether it is or is not sufficient to switch the burden of proof. That would avoid a Claimant feeling that the evidence has been swept under the carpet. It is hard to see the disadvantage of stating that there was evidence that was sufficient to shift the burden of proof but that despite the burden having been shifted and non-discriminatory reason for the treatment has been made out.

45. Particular care should be taken if the reason for moving to the second stage is to avoid the effort of analysing evidence and could be relevant to whether the burden of proof should have shifted at the first stage. This could involve treating the two stages as if hermetically sealed from each other, whereas evidence is not generally like that. It also runs the risk that a Claimant will feel that their claim that they have been subject to unlawful discrimination has not received the attention that it merits.

46. Where a Claimant contends that there is evidence that should result in a shift in the burden of proof they should state concisely what that evidence is in closing submissions, particularly when represented."

106 Consequently, a complaint of direct discrimination will only succeed where the Tribunal finds that the protected characteristic was the reason for the Claimant's less favourable treatment.

107 In ***Gould -v- St Johns Downshire Hill*** **[2021] ICR 1, EAT,** Mr Justice Linden summarised the case law and said,

"the question whether an alleged discriminator acted because of a protected characteristic is a question as to their reasons for acting as they did, it has therefore been coined the reason why question and the test is subjective for the torte of direct discrimination to have been committed it is sufficient if a protected characteristic had a significant influence on the decision to act in the manner complained of, it need not be the sole ground for the decision and the influence of the protected characteristic may be conscious or sub-conscious."

108 Perhaps the best description of how the Tribunal should approach this question was set out by Lord Nichols in ***Nagarajun -v- London Regional Transport*** **[1999]** ICR 877, HL when he said,

"save in obvious cases, answering the crucial question will cause some consideration for mental processes of the alleged discriminator. Treatment favourable or unfavourable is a consequence which follows from a decision. Direct evidence of a decision to discriminate on protected grounds will seldom be forthcoming, usually the grounds of the decision will have to be deduced or inferred from the surrounding circumstances."

109 Unreasonable conduct alone is usually not enough to justify an inference of discrimination. As the Court of Appeal noted in ***Igen***, although unreasonable conduct that may entitle a Tribunal to draw an inference of discrimination. Tribunals should guard against too readily inferring unlawful discrimination on a prohibited ground merely from unreasonable conduct "*where there is no evidence of other discriminatory behaviour on such ground".*

110 It is well established that direct discrimination can arise in one of two ways: first, where it is taken on a ground that it inherently discriminatory, that is where the ground or reason for the treatment complained of is inherent in the act itself, such as the employers application for a criterion that differentiates by race, sex etc. In cases of this kind, what was going on inside the head of the discriminator, whether described as intention, motive, reason or purpose, will be irrelevant. Or secondly, where a decision is taken for a reason that is subjectively discriminatory, that is where the act complained of is not in itself discriminatory but is read as so by a discriminatory motivation, i.e. by the mental processes, whether conscious or unconscious, which led the putative discriminator to do the act.

111 The Tribunal's focus must at all times be at the question whether or not they can properly and fairly infer discrimination as the EAT said in ***Laing -v- Manchester City*** and in considering what inferences can be drawn Tribunals must adopt a holistic approach by stepping back and looking at all the facts in the round and not focusing only on the detail of the various individual acts of discrimination. We must "see both the wood and the trees" as was said in ***Frazer -v- University of Leicester*** in EAT decision.

112 With regard to the procedural fairness and the requirement for the Claimant to put her case to the Respondent's witnesses to enable them to respond, I have been referred to the case of ***Tui UK Limited -v- Griffiths*** [2023] UKSC 48, and in particular paragraph 70. The Court said this,

*"In conclusion the status and application of the Rule in **Browne -v- Dunne** and the other case which I have discussed summarised in the following propositions,*

*(i) the general rule in civil cases as stated in **Phipson 20th Edition (para 12.12)** is that a party is required to challenge by cross-examination the evidence of any witness of the opposing party on a material point which he or she wishes to submit to the Court should not be accepted. That rule extends to both witnesses as to fact and expert witnesses.*

(ii) In an adversarial system of justice the purpose of a rule is to make sure that the trial is fair.

(iii) The rationale of the rule, i.e. preserving the fairness of the trial, includes fairness to the party who has adduced the evidence of the impugned witness,

(iv) Maintaining the fairness of the trial includes fairness to the witness whose evidence is being impugned whether on the basis of dishonesty and accuracy or other inadequacy.

(v) Maintaining such fairness also includes enabling the Judge to make a proper assessment of all the evidence to achieve justice in the cause. The rule is directed to the integrity of the Court process itself.

(vi) Cross-examination gives the witness the opportunity to explain or clarify his or her evidence. That opportunity is particularly important when the opposing party intends to accuse the witness of dishonesty but there is no principal basis for confining the rules to cases of dishonesty.

(vii) The rule should not be applied rigidly, it is not an inflexible rule and there is bound to be some relaxation of the rule as the current edition of ***Phipson*** *recognises in paragraph 12.12, in sub-paragraphs which follow those which I have quoted in paragraph 42 above. It's application depends on the circumstances of the case as the criterion is the overall fairness of the trial, plus where it would be disproportionate to cross-examine at length or where, as in* ***Chen -v- Ng****, the trial Judge had set a limit on the time for cross-examination, those circumstances would be relevant considerations in the Court decision on the application of the rule."*

Time Limits

113 I now turn to time limits and the Tribunal's jurisdiction.

114 I deal first of all with the time limit relating to the discrimination claim. Section 123 of the Equality Act 2010 provides the proceedings may not be brought after the end of a period of 3 months starting with the date of the act to which the complaint relates or such other period as the Employment Tribunal thinks just and equitable. Section 123(3) provides that conduct extending over a period is to be treated as done at the end of the period.

115 I refer to the decision in ***Abertawe Bro Morgannwg Unit Health Board -v- Morgan*** [2018] ICR 1194. In ***Abertawe*** Lord Justice Leggatt had said this, *"18. First it is plain from the language used ("such other period as the Employment Tribunal thinks just and equitable) that Parliament has chosen to give the Employment Tribunal the widest possible discretion unlike Section 33 of the Limitation Act 1980, Section 123(1) of the Equality Act does not specify any list of factors to which the Tribunal is instructed to have regard and it would be wrong in these circumstances to put a gloss on the words of the provision or to interpret it as if it contains such a list. Thus, although it has been suggested that it may be useful for a Tribunal in exercising its discretion to consider the list of factors specified in Section 33 of the Limitation Act (see British Coal Corpn v Keeble [1997] IRLR 336) the Court of Appeal has made it clear that the Tribunal is not required to go through such a list, the only requirement being that it does not leave a significant factor out of account: see Southwark London Borough Council v Afolabi [2003] ICR 800, para 33. The position is analogous to that where a Court or Tribunal is exercising a similarly worded discretion to extend the time and for bringing proceedings under Section 7(5) of Human Rights Act 1998: see Dunn v Parole Board [2009] 1 WLR 728, PARAS 30-32, 43, 48; and Rabone v Pennine Care NHS Trust [2012] 2 AC 72, para 75.*

19. That said, factors which are almost always relevant to consider when exercising any discretion whether to extend time are (a) the length of and reasons for the delay and (b) whether the delay has prejudiced the Respondent, (for example by preventing or inhibiting it from investigating the claim while matters were fresh).

20. The second point to note is that because of the width of the discretion given to the Employment Tribunal to proceed in accordance with what it considers just and equitable, there is very limited scope for challenging the Tribunals exercise of its discretion on an appeal. It is axiomatic that an Appellate Court or Tribunal should not substitute its own view of what is just and equitable for that of a Tribunal charged with a decision. It should only disturb the Tribunals decision the Tribunal has aired in principle, for example by failing to have regard to a factor which is plainly relevant and significant, or by giving significant weight to a factor which is plainly irrelevant, or if a Tribunals conclusion is outside the very wide ambit within which different views may reasonably be taken about what is just and equitable: see Bexley Community Centre (trading as Leisure Link) v Robertson [2003] IRLR 434, para 24."

116 As for time limits and my jurisdiction in relation to the claim for holiday pay the test is different. Such a claim must be presented within 3 months of the effective date of termination, extended in a variety of ways by the requirement to obtain an Early Conciliation Certificate from ACAS before filing a claim. What the extension is depends on when the notification given by the Claimant and when the Certificate is issued. Time may be extended for such further time as is reasonable but only if it was not reasonably practicable for the claim to have been filed in time.

117 General guidance for the parties about the approach to the Tribunal in such cases is the test for extending time has two limbs to it but both of which much be satisfied before the Tribunal will extend time.

118 First, the Claimant must satisfy the Tribunal that it was not reasonably practicable for the complaint to be presented before the end of the 3 month primary time limit, and if the Claimant clears that first hurdle she must also show that the time which elapsed after the expiry of the 3 month time limit before the claim was in fact presented was itself a reasonable period. Hence, even if the Tribunal is satisfied that it was not reasonably practicable for the claim to be presented within the 3-month time limit, if the period of time which elapsed after the expiry of the time limit was longer than was reasonable in the circumstances of the case no extension of time will be granted.

119 As regards the first limb of the test, it is quite difficult to persuade a Tribunal that it was not reasonably practicable to bring a claim in time. A Tribunal will tend to focus on the practical hurdles faced by the Claimant rather than any subjective difficulties such as lack of knowledge of the law, an ongoing relationship with the employer, or the fact that criminal proceedings are still pending. The principles to which I have had regard are those set out in Madam Justice Edie's Judgment in ***Paczkowski -v- Sieradzka*** (J**urisdictional points: Extension of time: reasonably practicable) [2016] UKEAT 0111 16 1907**.

Analysis and Conclusions

120 Addressing each issue in turn, the Tribunal has carried out an analysis of the facts and, applying the legal framework, has reached the following conclusions.

121 I have produced and then considered each issue in turn.

Jurisdiction (Equality Act 2010 claims)

"3. Given the Claimant contacted ACAS on 4 April 2024 were the Claimant's race discrimination claims based on conduct (whether acts, omissions, failures to act) which occurred on or before 4 January 2024 brought out of time?

4. If yes, did that conduct form conduct extending over a period in respect of which the Claimant made a timely claim at the end of that period?

5. If not, is it just and equitable to extend time to allow the Tribunal to consider the claim?"

122 The Claimant's concerns regarding the grievance procedure did not form part of the Claimant's claim of direct race discrimination. The date from which time starts to run is, at the latest, 13 October 2023. This means that the Claimant had until 12 January 2024 in which to contact ACAS and/or issue proceedings, although issuing proceedings without referring the matter to ACAS may have caused its own difficulties. In any event the Claimant failed to do so.

123 The Claimant says she failed to do so because she believed she was obliged to exhaust her internal grievance first. However, I have already found that, even if she did not realise her mistake before, she should certainly have done so by 9 February 2024 when she completed the form requesting her union, PCS, to provide her with advice. The form contains clear advice that internal grievances do not extend the 3-month limitation period.

124 It also does not explain why the Claimant delayed contacting ACAS or issuing proceedings once she was sent the grievance outcome letter on 11 January 2024; the suggestion that she was exploring whether she could appeal the grievance outcome does not hold any merit.

125 Consequently, I am satisfied that the Claimant's claim of direct race discrimination is out of time. However, I have a wide discretion when determining whether it would be just and equitable to extend time. I have considered carefully the points made by Mr Tinnion in his written submissions but I also take account of the guidance to be found in the Judgment of Lord Justice Leggatt in the ***Abertawe*** case. I am not satisfied that the delay has caused prejudice to the Respondent in presenting its case and, in fairness to Mr Tinnion, he has quite properly accepted that this is so.

126 Whilst finely balanced, I have decided to exercise my discretion in favour of the Claimant by extending the time for her to present her claim to 7 April 2024.

127 I turn to the next issue, namely whether I have jurisdiction to consider the holiday claim or is that claim out of time. The List of Issues says as follows:

Jurisdiction (Holiday pay claim)

a. "On 13 October 2023 the Claimant's employment terminated. On 4 April 2024 the Claimant contacted ACAS on 5 April 2024 ACAS issued an Early Conciliation Certificate. On 7 April 2024 the Claimant presented her ET1.

b. What was the date on which the Respondent was due to pay the Claimant any outstanding holiday pay out to her?

c. within 3 months of that date:

(i) did the Claimant present her ET1?

(ii) did the Claimant contact ACAS thereby extending the time she had to timely present and ET1 bringing her holiday pay claim?

d. if she did not, was it reasonably practicable for the Claimant to have presented her holiday pay claim within 3 months of that date?

e. If it was not reasonably practicable did the Claimant present her holiday pay claim within such further period as the Tribunal considers reasonable.

128 I must approach my deliberations in two stages: first, I must satisfy myself that it was not reasonably practicable for the holiday claim to be presented before the end of the 3 month primary time limit, and secondly, if I am so satisfied, whether the time that elapsed after the expiry of the 3 month time limit and the date on which the claim was presented was reasonable.

129 It was not disputed by the Claimant that time in relation to her holiday claim began to run on 31 October 2023, which was the date on which any outstanding sums owing to the Claimant could and should have been paid. That means by 13 January 2024, the Claimant should have referred her claim to ACAS or issued proceedings; she did neither. Neither of her documents submitted at the close of the evidence make any reference to the reasons why it was not reasonably practicable for her to do so.

130 I am satisfied that time limits as a topic was in the mind of the Claimant as, in relation to her claim of direct race discrimination, she argued that she was unable to issue proceedings until the outcome of her grievance was known. Also, the documents she completed for her union made reference to time limits.

131 Finally, her holiday claim did not form part of her grievance and so this cannot be relied on as a reason for any delay.

132 I have also taken account of how the Claimant has prepared for, and conducted herself during, this hearing. She has shown considerable resilience and insight and has also expressed in writing her understanding of the legal principles that apply.

133 The burden is on the Claimant to satisfy me that it was not reasonably practicable to present her claim or refer the matter to ACAS within the primary limitation period of 3 months less one day, namely 30 January 2024.

134 In my judgment, she has failed to do so.

135 Her suggestion that she was not in possession of relevant documents enabling her to formulate her claim had not changed as at 7 April 2024, but she still managed to lodge her claim at that time. Consequently, I do not have jurisdiction to consider her claims for holiday pay or flexi and those claims are dismissed. Even had I found that it was not reasonably practicable for her to do so, I would have found that, in failing to lodge her claim for a further 10 weeks, the Claimant failed to lodge her claim or refer the matter to ACAS within a reasonable time thereafter.

136 I now turn to the issues relating to the Claimant's claim of direct race discrimination. I would wish to start by making the following preliminary remarks which are of general application.

137 The burden of proof initially rests with the Claimant to establish, on the balance of probabilities, facts which would enable me to conclude in the absence of any other explanation that the Respondent had treated the Claimant less favourably than others and that the less favourable treatment was because of her race.

138 It is a serious matter to allege that someone has subjected another to less favourable treatment on the grounds of that person's race.

139 Whilst there is guidance to be found in the Supreme Court decision in 2023 in the case of ***Tui UK Limited -v- Morgan*** that I have outlined, as a matter of natural fairness, a person who is the subject of such an accusation has the right to have such an allegation put to them so that they have the opportunity to respond. Despite the Claimant being reminded of this at the start, and at the conclusion, of the evidence of each witness called on behalf of the Respondent, the Claimant singularly failed to do so and I consider this failure to be material.

140 I turn to the comparators put forward by the Claimant, namely Diane Taylor and Beata Baranska. It is a requirement under Section 23 of the Equality Act that there must not be a material difference between the Claimant's circumstances and that of her chosen comparator. I am satisfied that Ms Baranska falls into that category. She held the same position as the Claimant at the Respondent and she started her employment in June 2023 with the Claimant starting in April 2023. They were therefore both new in post and both required training in their new roles.

141 The same cannot be said for Ms Taylor in respect of issues 6(a) and (b). Whilst holding the same position as an EO, that is the extent to which her circumstances were similar or the same as that of the Claimant.

142 Ms Taylor, against whom the Claimant made no complaint, had worked as an EO in DSO from 2018. She was therefore extremely experienced in the role.

143 In relation to paragraphs 6(a) and (b) of the List of Issues, it was Ms Taylor who carried out the training and was one of the persons who gave support to the Claimant to enable her to complete the tasks expected of her.

144 Turning to the issues I am required to determine in relation to the Claimant's claim of direct race discrimination, my conclusions are as follows:

6. "Did the Respondent engage in the following conduct

(a) during her period of employment 1 April to 13 October 2023 the Respondent did not give the Claimant adequate training or support to enable her to complete the following tasks key to her job as an Executive Officer in the Directors Support Office

i. Ministerial correspondence log and FSA"

145 With regard to this issue, I have found as a fact that Ms Taylor provided training to the Claimant on how to deal with the Ministerial correspondence log and the Food Standards Agency. Indeed, the Claimant accepted in the course of her oral evidence that this was so, nor did she challenge Ms Taylor by suggesting that her training in respect of those tasks was inadequate.

146 I am also satisfied that the exchanges of correspondence between the Claimant and Ms Taylor showed that Ms Taylor was always receptive to requests for assistance and that she provided that help willingly and promptly.

147 Finally, the Claimant accepted that if she needed any additional training, she did not ask for it. I am satisfied that had she done so, such training would have been forthcoming. The Claimant's approach to working within the team may have affected her preparedness to ask for more help.

148 Further, when considering her situation compared to that of Ms Baranska, there was no evidence to support a conclusion that the Claimant was treated less favourably than Ms Baranska with regard to the level of training and support they both received.

149 Finally, it was never put by the Claimant to any of the Respondent's witnesses that, by comparison with Ms Baranska, the Claimant received inadequate training and the reason for this was because she was black and/or of African origin.

150 I am satisfied that the Claimant has failed to establish, on the balance of probabilities, facts which would enable me to conclude in the absence of any other explanation that the Respondent had treated the Claimant less favourably than others let alone less favourable treatment on the basis of her race.

151 Even had she been able to do so, I am satisfied that she was provided with adequate training and support.

6. "Did the Respondent engage in the following conduct,

b. During her period of employment the Respondent deliberately refused to show the Claimant processes relating to the handling of mailboxes"

152 Again, the Claimant has fallen substantially short of establishing that the Respondent deliberately, and I emphasize that word, refused to show the Claimant processes relating to the handling of mailboxes.

153 When giving her evidence, this appears to relate to when the Claimant first started and a difficult working relationship developed between the Claimant and the temporary EO, Heidi Reiser. However, this only reflected the situation for the first 3 months of the Claimant's employment at which time Ms Reiser left. The Claimant had not made any allegation of discrimination against Ms Reiser. I repeat my conclusions as set out under paragraph 6(a) above regarding the training and support from Ms Taylor. Furthermore, the Claimant worked closely with the CEO, Mrs Seager, meeting with her regularly each week and she had responsibility to manage Mrs Seager's mailbox and calendar. Ms Taylor had also showed the Claimant how to go through the shared mailbox.

154 By reference to her only real comparator, Ms Baranska, there was no evidence produced by the Claimant that Ms Baranska received additional or different training and support in this activity compared with the Claimant.

155 Finally, the Claimant never put to any of the Respondent's witnesses that she was treated less favourably than either Ms Taylor or Ms Baranska and that this was on the grounds of race.

156 I am satisfied that the Claimant has failed to establish, on the balance of probabilities, facts which would enable me to conclude in the absence of any other explanation that the Respondent had treated the Claimant less favourably than others let alone less favourable treatment on the basis of her race.

157 Furthermore, I repeat my findings that the Claimant received training from Ms Taylor and support from Mrs Seager.

"6. Did the Respondent engage in the following conduct:

(c). "on the following date the Claimant requested one on one meetings with her line manager but these never occurred."

i. on 12 July 2023 the Claimant asked Jackie Curtis for a catch up to resolve issues with Beata Baranska via a Teams chat.

ii. on 8 September 2023 via an email to Jacqueline Curtis.

iii. from 1 April to 25 August 2023 the Claimant did not have any line management meetings, (her first meeting was on 25 August 2023 after her return to work from sick leave.)

158 As for paragraph (c)(i), as at 12 July 2023, Ms Curtis had only very recently taken up her role at the Respondent. I refer to my findings regarding the chronology and reasons why one-to-one meetings were not arranged. However, there was no evidence that either Ms Taylor or Ms Baranska requested and attended a one-to-one meeting at that time, nor was it suggested by the Claimant that any failure to hold a one-to-one meeting was because of her being black and/or of African origin.

159 With regard to paragraph (c)(ii), Ms Clarke confirmed in writing on 5 September 2023 that she was in the process of arranging one-to-one meetings described as weekly catch ups, asking the Claimant to remind her of the days the Claimant was in the office so that the meetings could be in person or otherwise remotely.

160 Following that email the Claimant did not respond to the question about the best days on which such meetings could take place, but in her email of 7 September 2023, the Claimant asked about other matters such as moving to another team before any catch ups could be arranged. Then, before any progress could be made, on 13 September 2023, the Claimant resigned.

161 The Claimant was not able to establish that this represented unfavourable treatment, even less that it represented less favourable treatment compared to Ms Taylor and Ms Baranska, both of whom confirmed that they had not had one-to-one meetings with Ms Curtis.

162 Finally, at no stage did the Claimant suggest or put to any of the Respondent's witnesses that such treatment as she alleged was as a result of her being black and/or of African origin.

163 With regard to 6(c)(iii), I found as a fact that the return-to-work meeting took place on 23 August 2023 and not 25 August 2023 as suggested by the

Claimant. It has been accepted that the Claimant did not have any line management meetings, first, because her initial line manager, Mike Griffiths, was overstretched and support was provided by Ms Shilling but not as a formally appointed line manager; then, following the appointment of Ms Curtis, no line management meetings took place and I have outlined the chronology and rationale for those meetings not taking place, namely a combination of the Claimant being on leave, then sickness absence, and Ms Curtis being new to the role with a busy schedule.

164 Crucially, the Claimant has not established that, by comparison, line management meetings had taken place with Ms Taylor and Ms Baranska, let alone that such meetings had taken place and the reason why no meetings had taken place with the Claimant was as a result of her being black and/or of African origin.

"6. Did the Respondent engage in the following conduct:

(d) "on the following dates the Respondents CEO, Abi Seager, praised the work of the following white individuals but not the Claimant

i. Monday 26 June 2023 "*Beata [Baranska] is very good [at] making out where things go, you should ask her sometimes*" (in Abi Seager's office) and

ii. Wednesday 5 July 2023 *"Beata [Baranska] is doing a good job with Mike's (COO) inbox, before you take him on* (at diary catch up meeting with Abi Seager)."

165 Mrs Seager did not dispute that she may very well have used words of that sort on the two occasions specified by the Claimant. I am satisfied that the Claimant is wrong to conclude that, in Mrs Seager making such positive remarks about Ms Baranska's performance in her role, this automatically meant that Mrs Seager had concerns regarding the Claimant's performance. I consider such remarks being made are normal in a working environment and they were also made for a specific purpose, i.e. to offer support, particularly on 5 July 2023 when Mrs Seager was referring to the management of Mike Griffiths's mailbox.

166 Finally, and once again, despite being reminded to do so, the Claimant did not put to Mrs Seager that making such remarks amounted to less favourable treatment on the grounds the Claimant is black and/or of African origin.

167 I am satisfied that the Claimant has failed to establish, on the balance of probabilities, facts which would enable me to conclude in the absence of any other explanation that the Respondent had treated the Claimant less favourably than others let alone less favourable treatment on the basis of her race.

168 With regard to paragraphs 6(e) and (g), I do not consider I need to make any findings in that, throughout the hearing, the Claimant stated that her concerns with the grievance procedure related more to a procedural irregularity. The Claimant made it clear that it did not form part of her direct race discrimination claim and that she did not make any allegation against Sue Quinney regarding her discrimination claim.

169 Turning to paragraph 6(f) it is difficult to discern any basis on which this can amount to a direct race discrimination claim if, indeed, a grievance had been made against the Claimant. In the absence of any detail about the grievance, there is no evidence at all that this amounts to unfavourable treatment compared to Ms Taylor and Ms Baranska, let alone that such treatment was on the grounds of race.

170 In any event, the Claimant had not produced any evidence apart from one comment in correspondence from her union that a grievance had been made against her and all the Respondent's witnesses confirmed they had no knowledge of such a grievance.

171 For all these reasons, I have found, on the balance of probabilities, that no such grievance had been made against the Claimant.

172 Finally, for all the reasons I have outlined above I have concluded that the Claimant has failed to persuade me to the necessary standard that the Respondent has contravened Section 13 of the Equality Act.

173 Having listened to the Respondents witnesses give evidence, there was no basis on which an inference can be drawn that they were subjectively discriminatory in their treatment of the Claimant.

174 The largely unchallenged evidence of the Respondent supports a conclusion that any conduct of which she complains did not amount to less favourable treatment on the grounds of race.

175 Consequently, the Claimant's claim of direct race discrimination is not well-founded and is dismissed.

176 With regard to the holiday pay claim, I have found that I do not have jurisdiction to consider that claim as it is out of time and is therefore dismissed. In the circumstances, there is no requirement for me to consider the issues set out at paragraphs 9 to 13 of the list of issues.

Employment Judge Havard
Dated: 12 December 2025

REASONS SENT TO THE PARTIES ON

8TH December 2025

O.Miranda
FOR THE SECRETARY OF EMPLOYMENT TRIBUNALS