



# EMPLOYMENT TRIBUNALS

## BETWEEN

**Claimant:** Mr P Walcott  
**Respondent:** London Underground Limited  
**Heard at:** in public in person  
**On:** 8-9 December 2025  
**Before:** Employment Judge Adkin

### Appearances

For the claimant: Ms R Walcott (Claimant's daughter)  
For the respondent: Ms L Whittington (Counsel)

## REASONS

1. The Claimant requested reasons for the judgment given orally at the hearing on 8-9 December 2025 for the dismissal of his claim of direct race discrimination, brought under sections 13 and 39 of the Equality Act 2010.

### Summary

2. The Claimant complains that he has been treated less favourably to white colleagues in respect of backdated pay, which the parties agree has cost him £18,900.
3. The Respondent's explanation for this discrepancy was a change of circumstances. I understood why the Claimant felt that he had been treated unfairly and treated differently to colleagues. He had been treated less favourably than two white colleagues.
4. I did not find that the reason for the less favourable treatment was the Claimant's race. I did not conclude on the balance of probabilities that Mr Nigel

Darke, who took the decision about which the Claimant complains, was aware of the Claimant's race. I did not find that the Claimant's race was a factor in his decision and it followed that the less favourable treatment was not because of the Claimant's race.

## **Hearing**

5. The Claimant, Mr Peter Walcott, attended the hearing accompanied by his daughters. He was ably represented by Ms R Walcott, whose assistance the Tribunal acknowledges with gratitude.
6. The Respondent was represented by Counsel, Ms L Whittington. I raised with the Claimant that I had supervised Ms Whittington as a pupil barrister in chambers a number of years ago, but that I was no longer in those chambers and we did not have any social connection. There was a short adjournment, after which Mr Walcott confirmed that he had no objection to proceeding.
7. The hearing took place over two days, with evidence heard yesterday and today. The claim concerns an allegation of direct race discrimination. The Tribunal had the benefit of a bundle comprising 113 pages and witness statements from the Claimant, as well as statements from Mr Stephen Jeff and Mr Mark Jordan in support of the Claimant. Neither of those supporting witnesses was able to attend for reasons accepted by the Respondent as good reasons.
8. For the Respondent, evidence was given by Mr Nigel Darke.

## **Findings of Fact**

9. The Claimant is of Afro-Caribbean descent, as is his colleague Mr Mark Jordan, who performs the same role.
10. The Claimant compares himself to two white colleagues, Mr Stephen Jeff (an RMT representative) and Mr Steve Hodgson. All four individuals are Automatic Technicians working within the Respondent's Signals Team.

## Role

11. The role of Automatic Technician has been earmarked by the Respondent for eventual phase-out since 2016, although this process has been slow and the role still exists.

## History

12. The Claimant commenced employment on 5 March 2007 as a Track Circuit Technician within the Signals Technical Delivery Department, which now falls under the control of Mr Darke, Head of Signals Maintenance and Renewals.
13. In 2010, Mr Jeff, a white comparator, passed the Automatic Technician course.
14. The Claimant passed the same course on 11 December 2015.

15. Around that time, Mr Hodgson, the other white comparator and Mr Jordan also completed the course.

#### Framework agreement

16. On 22 June 2016, the Respondent updated a document entitled “**Framework Agreement for London Underground Ltd Signals Employees.**”
17. The Respondent relied particularly on section 1.3, and clause 1.3.4:

#### 1.3 Training

1.3.4 Where a business unit does not have vacancies for grade progression roles within their existing headcount but can foresee a time in the future where this will be the case (due to retirement level transfer etc.) a rationale for upskilling staff within the existing headcount will need to be produced and approved by the Band 4 manager for the area. Once approved grade progression development will apply to staff based within this department in the first instance. Any changes to grade requirements shall be subject to discussion at local level in accordance with the Health and Safety Machinery and 6.1.1 of the Main Agreement

#### Requirements for grade change

18. The Respondent also relied upon a table at page 58 which describes eight different grades within the signalling area, the licensing and other requirement for those grades and notes which indicate the point at which a grade would change.
19. This table refers to the Claimant’s starting role of “Track Circuit Technician”. In the table, it is stated the role requires licensing to “IRSE Maintainer”, which is an Institution of Railway Signal Engineers qualification. In “notes”, it states that grade change occurs once the course and licence have been obtained.
20. Although it is not separately documented, the Respondent’s case is that similar requirements applied to the Automatic Technician role, namely completion of the course and achievement of licensing.

#### 2018 meeting with Mr Milton

21. On 18 May 2018, the Claimant sought a meeting with Mr Simon Milton, then Head of Signals Maintenance and Renewals, regarding personal development. His evidence is that this included obtaining IRSE licensing for the Automatic Technician role. In his claim form, though not in his witness statement, the Claimant asserts that he was told there was no requirement for anyone to be licensed at that particular grade at that time at that time.

Progression from course completion to licensing

22. Mr Darke could not speak to what was said by his predecessor Mr Milton in 2018. His evidence was however that there was an expectation generally that licensing would follow course completion within a reasonable timescale, which he considered to be six to nine months.
23. The cost of licensing was relatively small, in the hundreds of pounds. Mr Darke suggested that responsibility was joint between the individual and management to ensure competency evidence was obtained following on from completion of the course, for licensing.

2019 alleged agreement re: backpay

24. On 4 June 2019, a meeting took place between Mr Milton and two union representatives, Mr Jeff and Mr Jackson. The Claimant did not attend that meeting but says that his understanding was that an agreement was reached that increased pay, payable upon achieving licensing, would be backdated to the date the individual passed the course. This position is supported by Mr Jeff's witness statement.

Comparators receive IRSE licenses

25. Subsequently, Mr Hodgson obtained his IRSE licence in 2019 and Mr Jeff in March 2020.
26. Both received backdated payments to the date they passed the course. In Mr Jeff's case, this backdating covered approximately ten years, as he had passed the course in 2010.

Change in management

27. In 2021, Mr Milton left his role.
28. Mr Darke then assumed responsibility for a department of 800 staff and a budget of £95 million.

Claimant receives IRSE license

29. On 20 December 2022, Mr Jordan passed his competency assessment for IRSE licensing and received his licence in February 2023.
30. The Claimant obtained his licence the following year on 20 September 2023.
31. It was suggested during the hearing that the Covid-19 pandemic had been a cause of delay in the licensing process, which seems plausible, although plainly that cannot explain the delay between December 2015 and March 2020.

Union chases backpay

32. On 1 May 2024, the RMT wrote to Mr Darke raising the entitlement to back pay for Mr Jordan and the Claimant.

33. Mr Darke treated this as a collective grievance.
34. A meeting was held via Microsoft Teams on 21 June 2024 with two RMT representatives, Mr Jeff and Mr Jackson. The Claimant did not attend.
35. Around this time, Mr Darke also gave instructions regarding an unrelated back pay issue concerning the Claimant's grade. As a result, the Claimant received a letter on 4 July 2024 confirming progression to grade SV40 with effect from 20 September 2023, the date of licensing. A similar adjustment was made for Mr Jordan.
36. As part of his investigation into the grievance, Mr Darke emailed his predecessor, Mr Milton, on 24 July 2024 seeking details of the 2019 agreement. Mr Darke stated in evidence that he was unaware of the precise date of the 2019 meeting until he saw the witness statements in this Tribunal.
37. In the email to his predecessor, Mr Darke wrote candidly that he had no intention of paying, which the Claimant suggests (understandably) that this shows a closed mind.

#### Union chases outcome

38. On 5 August 2024, Mr Jeff, via the RMT, chased the outcome, noting the delay was unacceptable.
39. Mr Darke replied on 9 August stating he would provide an outcome based on available information. He did not receive any response from Mr Milton.

#### Grievance outcome

40. An outcome letter dated 30 August 2024 was issued, and the grievance was not upheld.
41. The letter stated that an agreement had been made with the previous Head of Signals and that progression training had been provided to four individuals: Mr Jeff, Mr Hodgson, Mr Jordan, and the Claimant. As both Mr Jeff and Mr Hodgson were licensed as part of that agreement, they were back-paid to the point of qualification, which was established and paid in 2019.
42. Mr Darke noted in the outcome letter that no evidence had been provided of the agreement's rationale, conditions, or timescales. It stated that circumstances had changed over five years and referred to a reasonable timeframe of six to nine months for licensing. It concluded that the Claimant and Mr Jordan had not obtained licences in a timely fashion, as five years had passed since discussions and almost nine years since course completion. The grievance was therefore not upheld.
43. Later that day, Mr Jackson of the RMT emailed raising a different question: why had licensing taken so long, and was it the employees' fault or management's?
44. Mr Darke treated this as commentary rather than an appeal.

45. The Claimant received the outcome letter via WhatsApp on 7 November 2024.

Proceedings

46. The ACAS Early Conciliation period commenced on 3 October 2024.

47. The claim was presented on 11 December 2024.

Quantum

48. The parties agreed quantum at £18,900.97, subject to liability.

49. The Claimant stated, and the Tribunal accepts, that the process and proceedings have been stressful.

**Issues**

50. The agreed list of issues appears at pages 40–41 of the bundle.

Time

51. It was confirmed at the outset of the hearing, with a correction to the date of course completion (11 December 2015).

52. The grievance outcome was dated 30 August 2024, ACAS ran from 3 October to 14 November 2024, and the claim was presented on 11 December 2024.

53. The claim is in time.

Substantive issue: direct race discrimination.

54. The Claimant describes his race as Black or Afro-Caribbean.

55. The question is whether, in or after September 2023, the Respondent failed to pay back pay covering the period from 11 December 2015 to 20 September 2023 because of race.

56. The Claimant's case is that Mr Milton agreed in 2019 that all four men would receive backdated pay upon licensing, and that Mr Darke failed to honour that agreement because of the Claimant's race.

57. The Respondent's case is that Mr Darke did not know the Claimant's race when making the decision. If that is correct, race cannot have been a significant influence.

Analysis

58. The Tribunal accepts that Mr Jeff and Mr Hodgson were appropriate non-black comparators. Their circumstances were materially similar.

59. For direct discrimination, it is not enough that the Claimant suffered less favourable treatment and is of a different race to his comparators. The

treatment must be *because of* race or significantly influenced by race. Knowledge of race is therefore crucial.

60. Mr Darke's evidence is that he did not know the race of Mr Walcott or Mr Jordan when deciding the grievance. Neither man attended the grievance meeting.
61. The Claimant suggested Mr Darke must have known his race, perhaps because his race was raised at the meeting or because Mr Darke saw a photograph of the Claimant on an IRSE licence image emailed to a manager on 14 March 2024. It was also suggested that grade-related correspondence might have alerted him. Mr Darke denies this. The Tribunal has seen no documentary evidence that Mr Darke saw the photograph or the relevant email.
62. The Respondent's internal licensing register is text-only, without photographs. Mr Darke was responsible for 800 staff. There is no evidence undermining his clear testimony. On the balance of probabilities, the Tribunal finds Mr Darke did not know the Claimant's race.
63. It is not disputed that Mr Darke made the decision. No other basis has been put forward explain how race affected the decision. In circumstances where Mr Darke did not know the Claimant's race and no other mechanism is suggested for race to have influenced the decision, the Tribunal cannot find that race was a significant influence.
64. It is not in dispute that the white comparators received the benefit of backpay calculated back from the date of licensing to the date that they passed the course, whereas the Claimant (and Mr Jordan) did not. Mr Darke referred in the grievance outcome to "changed circumstances" over five years, although precisely what that meant was not really explained. Mr Darke considered that without the precise detail of the agreement reached with Mr Milton he should default to a "custom and practice" expectation of licensing being achieved within a timely 6-9 month period.
65. The Claimant was treated less favourably than those two colleagues. The disparity is stark, and the Claimant's sense of injustice is understandable. However, for reasons given I did not find that the reason for that treatment was his race.

## Conclusion

66. The Claimant was treated less favourably than his comparators, but not because of race.

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Employment Judge Adkin

Date 27 January 2026

WRITTEN REASONS SENT TO THE PARTIES ON

13 February 2026

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FOR THE TRIBUNAL OFFICE