



EMPLOYMENT TRIBUNALS

Claimant: Nina Dimitrova Nikolaeva

Respondent: Somerset NHS Foundation Trust

Heard at: Exeter Employment Tribunal

On: 14, 15, 16, and 22 January 2026 (days 1 to 3 in person, day 4 by CVP)

Before: Employment Judge Volkmer

Representation

Claimant: in person

Respondent: Ms O'Halloran, counsel

JUDGMENT having been sent to the parties 11 February 2026 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunals Rules of Procedure, the following reasons are provided.

REASONS

The Claim

1. The Respondent is an NHS Foundation Trust where the Claimant worked as a Health Care Assistant.
2. The Tribunal considered a Hearing Bundle of 372 pages, page references in this document are references to the Hearing Bundle. It was identified that a grievance policy which came into force after the events complained about had been included in the bundle. The correct version of the grievance policy, and an email showing that it had been emailed to the Claimant at the time of the events were provided to the ET during the hearing and no objections were made to these being considered by the Tribunal.

3. The Tribunal heard oral evidence from the Claimant, and on behalf of the Respondent from Amanda Bradley, Kristina Renshaw, Megan Greenway and Robert Williams.

The Background/Preliminary Issues

4. The Claimant contacted ACAS for the purposes of Early Conciliation on 22 August 2024 and an ACAS Early Conciliation Certificate was issued on 19 September 2024. The claim was presented on 7 October 2024.
5. The ET1 states *"Since 14 April 2022 they start using my original name Nina instead of the new muslim ones Halima. In the contract clearly is written my name related to my new religion which is Halima Ali."*
6. Prior to the Preliminary Hearing, in the Particulars of Response (page 53), the Respondent stated the following at paragraph 8.5 (page 54).

"From 14 April 2022, the Respondent failed to refer to the Claimant using her new Muslim name, Halima."

The Claimant is asked to confirm the dates on which this is said to have occurred, by whom and why the Claimant believes this was because of her religion or belief."

7. In a document dated 5 March 2025 titled *"Answers to the NHS"*, the Claimant responded to the Respondent's requests for further information as follows.

"2. Q. You state that from 14 April 2022, the Respondent failed to refer to you using her new Muslim name, Halima. Please could you confirm the dates on which this is said to have occurred, by whom and why you believe this was because of your religion or belief?"

A. On 14 April 2022, I started my training as a Bank HCA. I always used my Muslim name, Halima Dimitrova Ali, in all correspondence and documentation. My employer (NHS SomersetFT) gave me an EOL account under the username Nina Ali to book my bank shifts. Evidence for this is in the email received on 24 May 2022. I am copy the email below:

*"Dear Halima,
Below is your Bank Shift Booking login:
Username: Nina.Ali
Password: Summer2*

*EOL for PC – <https://somft.allocate-cloud.co.uk/EmployeeOnlineHealth/SOMFTLIVE/Login>
EOL for Mobile - <https://somft.allocate-cloud.co.uk/EmployeeOnlineMobile/somftLIVE/#/login>*

If you have problems accessing the booking system, contact Eroster Team on 01823 344866.

*If you need to cancel your bank shift, phone our Temporary Staffing Team
8am-8pm 01823 342 221*

Please see attachment for how to view payslips. If you have any problem accessing please contact the team on ESRselfservice@somersetft.nhs.uk

Kind regards

*Amanda Bradley
Bank Induction and Training Coordinator
banktraining@somersetft.nhs.uk ☐07818 539437
www.somersetft.nhs.uk | Twitter: @SomersetNHSjobs
Facebook: @SomersetNHSjobs | Instagram: @SomersetNHSjobs*

I believe this was because of my religion or belief, because the Trust make my user name with my old Christian name because They are not pleased that their employee has a Muslim name and religion."

8. The matter came before Employment Judge Livesey at a Preliminary Hearing on 30 July 2025. The Record of the Preliminary Hearing/Case Management Orders are at page 81, and I will refer to the document as the "CMO". The CMO set out the List of Issues at page 90.
9. In the CMO, the allegation relating to the Claimant's name was stated to be *"From 14 April 2022, the Respondent failed to refer to the Claimant using her new Muslim name, Halima."*
10. The CMO contained, at paragraph 12, a requirement that the parties write to the Tribunal by 27 August 2025 if they considered something had been recorded incorrectly on the List of Issues. The solicitor acting for the Respondent, Yara Aboud, who had also been present at the Preliminary Hearing wrote to the Tribunal on 27 August 2025 saying the following.

*"When the Claimant was asked to clarify the allegation detailed at paragraph 1.2.5 of the list of issues during the Preliminary Hearing, we believe that the Claimant confirmed that:
'On 14 April 2022, the Respondent gave the Claimant an EOL account to book her bank shifts under the username 'Nina Ali' instead of using her preferred Muslim name, 'Halima Dimitrova Ali', as confirmed by an email from Amanda Bradley (Bank Induction and Training Co-Ordinator)'." (page 93) [The reference to paragraph 1.2.5 is now 2.2.5 of the List of Issues below]*
11. No response to this from the Tribunal or from the Claimant is on the Tribunal file. The Respondent wrote to the Tribunal again flagging the issue on 6 January 2026.
12. I heard from both parties on this point. The Claimant's position was that she had not agreed to narrow the allegation in this manner. The Respondent's position was that given the Claimant's written and oral clarification of this alleged act of discrimination, the Amended Grounds of Response and

witness evidence had been prepared on the basis of the narrower allegation.

13. Having regard to the Claimant's written document, which clearly referred to one incident relied on, rather than saying that this was an example it appeared to me that the Claimant had, in fact, narrowed the scope of this allegation in writing. This was consistent with what the Respondent submitted had allegedly been said by the Claimant in the preliminary hearing in relation to this allegation. The Respondent had raised this in a timely fashion, in the email sent by the Respondent on 27 August 2025. The Claimant had not objected to the contents of that email. The Respondent had proceeded on the basis of the narrowed allegation. I considered that weighing the prejudice between the parties, the Respondent was entitled to rely on written and oral statements regarding the facts relied on in relation to this allegation. On that basis, the relevant paragraph was amended as requested by the Respondent.
14. The Respondent agreed that the raising of the employment claim constituted a protected act.
15. The CMO states at paragraph 67, *"In addition, having referred to victimisation in broad terms in her application to amend, the Claimant specified that the protected act was the bringing of the claim and the 2 detriments occurred on 26 April and 16 May 2025. Accordingly, they were new claims and, rather than have her set them out formally in writing, the Judge and the Respondent were content for the issues to be recorded below, following the granting of the amendment"*. Therefore, the victimisation allegations were added to the Claim by this amendment granted on 30 July 2025.
16. The Claimant raised verbally at the beginning of the hearing that in relation to the detriments relied on for her victimisation claim that it was not the move to Tor Ward that was problematic, but the way in which she was treated once there, which she had set out in her witness statement. However, this was not a matter set out in the claim. The amendment application at the Preliminary Hearing before Employment Judge Livesey had permitted an amendment to include the move to Tor Ward itself as an alleged act of victimisation. I asked the Claimant whether she had written in to correct the List of Issues (as required by paragraph 12 of the CMO) or whether she had made a further amendment application, and she said that she had not. The Claimant did not seek to make an amendment application in the face of the Tribunal, and it would have been beyond the remit of the Tribunal to invite her to make one. On that basis I did not amend what is now paragraph 3.2.2 of the List of Issues, below.
17. Whilst discussing the List of Issues, I raised with the parties that time limits appeared to be relevant and had been included in the draft List of Issues sent to the Tribunal before the Preliminary Hearing but had not been included in the List of Issues in the CMO. I added this as the first paragraph of the List of Issues. This had not been addressed in the Claimant's witness statement, but I explained that I would ask about this at the beginning of the

Claimant's evidence to enable her to give evidence on the time point. This approach was agreed by the parties.

18. The Claimant had a number of additional documents which she wished to include. By agreement, I accepted a different bundle containing these documents, so that the Claimant could easily refer to them. All documents I was referred to in that bundle were duplicates of documents in the agreed hearing bundle, so for simplicity, the references in this judgment refer to the main Hearing Bundle. I noted that in the Claimant's written submissions she stated that she was not permitted to refer to these documents, but I explained to her during oral submissions that I had accepted them and read them as part of her evidence. In practical terms, during the Claimant's cross examination of the Respondent's witnesses and her submissions, she did refer to her own bundle.
19. On the morning of the first day of the hearing, I also explained the concept of a hypothetical comparator and asked each party to put forward their positions regarding the material circumstances relevant to each alleged act of discrimination.
20. During submissions, the Claimant stated that Counsel for the Respondent had interjected in cross examination and prompted the Respondent's witnesses. When asked for further clarification, she stated that this related to questions regarding the photograph at page 308. This does not reflect my note of the hearing. Ms O'Halloran had raised a query about the date of the photograph with me, saying it potentially undermined one of the Claimant's allegations which related to Parkside Ward (at paragraph 3.2.1 of the List of Issues below). The witness had interjected that the photograph related to Tor Ward and therefore did not undermine the Claimant's allegation as suggested by Counsel. I consider that this was an appropriate exchange and cannot be described as counsel prompting the witness during cross-examination.
21. Further, in her submissions, the Claimant criticised Mr Williams for not sitting outside of the Respondent's waiting room or staying separate from other witnesses during the lunch break contrary to a direct instruction. I clarified that I had not instructed the witness to stay separate, but only that it was safer to do so. I had told him that he must not discuss the case or the evidence with anyone else, but that he could speak with them about unrelated matters.

The Issues

22. The issues which fell to be determined at this hearing are therefore as follows.

1. ***Time limits***

- 1.1 *The Claimant commenced the Early Conciliation process with ACAS on 22 August 2024. The Early Conciliation Certificate was issued on 19 September 2024. The claim form was presented on 7 October 2024.*

1.2 *Were the discrimination and victimisation complaints made within the time limit in section 123 of the Equality Act 2010? The Tribunal will decide:*

1.2.1 *Was the claim made to the Tribunal within three months (plus early conciliation extension) of the act or omission to which the complaint relates?*

1.2.2 *If not, was there conduct extending over a period?*

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

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

1.2.4.1 *Why were the complaints not made to the Tribunal in time?*

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

2. *Direct race and/or religion discrimination*

2.1 *The Claimant describes herself as Bulgarian and a Muslim.*

2.2 *Did the Respondent do the following things:*

2.2.1 *on 3 June 2024, Michelle Groves (Senior Sister) accused the Claimant of poor quality work following her all-day shift on 2 June 2024;*

2.2.2 *Kristina Renshaw (Temporary Staffing and E-Rostering Clinical Manager) and/or HR failed to investigate the accusation detailed at paragraph 2.2.1;*

2.2.3 *on 7 June 2024, Megan Greenway failed to respond to the Claimant's messages on the Bank HCA and SDU WhatsApp group and failed to allocate shifts to her;*

2.2.4 *on 16 July 2024, the Respondent's acute staffing team allocated the Claimant 2 hour unpaid breaks during their shifts; and*

2.2.5 *on 14 April 2022, the Respondent gave the Claimant an EOL account to book her bank shifts under the username 'Nina Ali' instead of using her preferred Muslim name, 'Halima Dimitrova Ali', as confirmed by an email from Amanda Bradley (Bank Induction and Training Co-Ordinator)?*

2.3 *Was that less favourable treatment? The Tribunal will have to decide whether the Claimant was treated worse than someone else was treated. There must be no material difference between their circumstances and those of the Claimant. If there was nobody in the same circumstances as the Claimant, the Tribunal will decide*

whether she was treated worse than someone else would have been treated. The Claimant says she was treated worse than a hypothetical comparator who was not a Muslim and/or Bulgarian.

2.4 If so, was it because of race and/or religion?

2.5 Is the Respondent able to prove a reason for the treatment occurred for a non-discriminatory reason not connected to race and/or religion?

3. Victimisation (Equality Act 2010 s. 27) [added by way of amendment on 30 July 2025]

3.1 The parties agree that the Claimant brought proceedings in the Employment Tribunal on 7 October 2024 and that this was a protected act.

3.2 Did the Respondent do the following things:

3.2.1 the Claimant's line manager, Mr William, failed to allocate her different duties from 26 April 2025. She alleges that she ought to have been rotated around other rooms/wards but, instead, she was directed to stay working on rooms 7-12 of the private section, which accommodated higher dependency patients;

3.2.2 the Claimant's line manager, Mr William, allocated her to Tor Ward from 16 May 2025?

3.3 By doing so, did the Respondent subject the Claimant to detriment?

3.4 If so, was it because the Claimant had done the protected acts?

Facts

23. The Claimant is Bulgarian. She is a qualified nurse in Bulgaria but failed an English language exam required for her to work as a nurse in the UK. The Claimant converted to Islam and changed her name to from Nina Dimitrova Nikolaeva to Halima Dimitrova Ali.

24. The Respondent is an NHS trust. The Claimant began working as a Bank Worker in the role of Healthcare Assistant, known as an "HCA" for the Respondent from 14 April 2022 (page 120). Bank workers are effectively casual or zero hours members of staff who are called on to supplement shortfalls of permanent employees (page 124). She was employed as a permanent employee in the same role of HCA from 16 September 2024.

25. On the "employer starter form", against the box "Name (to be known as)", the Claimant recorded "Nina". She did this because she had misread the box as referring to previous first name.

26. On 24 May 2022, Amanda Bradley (Bank Induction and Training Coordinator for the Respondent) could not initially find the Claimant's log in details on the system when looking for her under the name Halima Ali. She emailed an administrator who responded that this could be found under the Claimant's preferred name of Nina Ali (page 131). Ms Bradley then sent the Claimant an email saying the following (page 133).

"Below is your Bank Shift Booking login:

Username: Nina.Ali

Password: Summer2"

27. These were log in details which the Claimant could use to log into an online system to see available bank shifts and book herself into them.
28. The Claimant sent two follow up emails asking questions but did not raise a concern with the username which had been used (pages 133 and 134).
29. On 2 June 2024, the Claimant undertook a shift on the Gould Ward, during which she looked after a dementia patient on a one to one basis. Michelle Groves (Senior Sister) was the Senior Sister for the Gould Ward that day. The parties agree that a third party had raised concerns with Ms Grove about the Claimant's conduct during the shift.
30. On 3 June 2024, Ms Grove sent the Claimant an email saying the following (pages 151 and 152).

"Good morning,

Can I please first say thank you for coming to work on Gould ward on the weekend. I know it can be difficult moving around the wards.

I am told that with regards to tasks you were fulfilling your role. However, I have had some comments that I thought I should let you know about for your development. I have been made aware that you were in the role of 1:1 for a lady in B bay. It has been said that whilst you carried out the patient care tasks that were required, at times your communication came across as frustrated and this may have exacerbated the patients confusion. I wanted to remind you that we do not leave a patient wet, even if it is at a mealtime, as this can lead to skin irritation and also patients can become more agitated when they are wet. It can be difficult being with 1 patient, who is exhibiting, at times, challenging behaviours. I hope that you felt able to ask to swap with the other team members so that you were not (sic) spending your whole shift with one patient. I think you need to be mindful of the way communication can be perceived by the other people around you.

I was wondering whether you may benefit from undertaking some of the dementia training that is available via LEAP.

I would be happy to discuss this with you further should you wish.

Kind regards

Michelle"

31. The Respondent operated a WhatsApp Group called the "Bank HCA for SDU WhatsApp Group". On 10 June 2024 Megan Greenway (Deputy Ward

Manager of the Surgical Decision Unit (“SDU”)) and the Claimant sent messages on the group saying the following (pages 148 and 149).

“[Ms Greenway at 10.09] *Morning all, we've put out some observation and support shifts:*

- *Night shift tonight*
- *2 x Long day tomorrow*

[Claimant at 10.10] *May I have the night*

[Claimant at 10.10] *Please 🙏*

[Claimant at 10.18] *Please this is my last shift before vacation let me have in a nice place 🙏🙏🙏*

[Ms Greenway at 12.46] *Sorry Nina it's already been picked up. It might be worth checking on back if I don't reply in 10 mins. So sorry it's been mental here today xx*

[Ms Greenway at 12.46] **bank*

[Claimant at 10.10] *Dear Megan, As you can see from the screenshot you wrote the message at 10:09 am, I replied at 10:10 a minute later. Notice that at 12:46 you write to me that someone has already taken the duty. I'm sorry, but I'm not such a fool that I don't recognize the racism and discrimination I'm subjected to. And in truth, you show them for the second time with me, which leads me to think that it is necessary to look for my human rights. Don't worry I'm leaving your group. I just want to thank Lisa for always being nice to me.*

The Claimant then left the WhatsApp group

[Sarah-Jane Dowling at 15.48] *For group awareness, I would just like to remind you as valued colleagues that this group is to make staff aware of available shifts. These can be picked up by contacting the temporary staffing team as the SDU leadership team can be working in the numbers and clinical therefore cannot always reply to these straight away.*

*Many Thanks
SDU leadership team”*

32. On 12 June 2024 the Claimant replied to Ms Grove’s email regarding her shift on 2 June 2024 in an email covering two pages of the bundle (pages 150 and 151). The Claimant set out her professional background as a nurse with a bachelors and masters degrees, strongly denying the allegations and saying “*Your unjust accusations deeply hurt my soul, and more so that you, as a senior nurse, should not accept accusations against your employees from just one denunciation unilaterally and without investigating whether it is all true*” (page 150). The Claimant copied Bethany Webber (Temporary Staffing Senior Clinical Administrator) and her direct supervisor, Kristina Renshaw (Temporary Staffing and E-Rostering Clinical Manager) to her email to Ms Groves.

33. After the Claimant's return from holiday, Ms Webber replied to her on 21 June 2024 saying the following (page 167).

*"Hi Nina,
I hope you had a lovely time on vacation!*

*...
I wanted to touch base regarding your email response to Michelle, who recently shared some feedback with your (sic) following a shift on Gould.*

I truly believe that Michelle's email was sent in good faith and she certainly would not have wanted to cause upset or offence.

Michelle is great at sharing feedback with our bank staff whilst on shift, but as she had not had the opportunity to raise this with you in person, she chose to email the teams feedback to allow you to be made aware and support with any learning as necessary.

This is something we actively encourage our ward managers to do.

Whilst we do appreciate your experience as a registered nurse in Bulgaria and we have not had any concerns raised before, we would still expect you to listen to the feedback and respond accordingly, demonstrating your learning and reflection.

We would encourage you to book into the Dementia Study day, this is a really great learning course and recommended for all staff who support patients with a diagnosis of dementia.

Please do let me know if you would like to discuss further.

Many thanks"

34. The Claimant replied the same day, 21 June 2024, saying the following (Page 173).

"I think that for more than two years you have already gotten to know me and you know that I am painfully sincere. The fact that Michelle accepted the report of a lying whistleblower without doing any fact-checking deeply shocked and depressed me.

I know that we foreigners are and will always be second-class people to you, but since here in Great Britain there are so many laws that protect human rights and justice, I would like a few bits of justice for me.

In this case, I am accused of incompetence and poor care of the patient, WHICH GOD AND THE EVIDENCE IN THE PATIENT'S FILE WITNESS, is not true.

With the suggestion you make me to go on a dementia course, it is clear to me that you agree with the fact that I am an incompetent and poorly caring employee. Thanks for your rating though, I'll know what you think of me.

Respectfully, Nina

35. The Claimant sent a second version of the email a moment later, which did not include the two final paragraphs.
36. Ms Renshaw, the Claimant's line manager then sent her an email on 26 June 2024 saying the following (page 172).

"I want to reach out to you in relation to the email below.

I can see you have sent the email twice and you have removed the second part of your email. I can only assume that you reflected on the tone of your email and decided to send again.

I wanted to assure you that the email sent by Beth and Michelle have both been sent with the best intentions, to encourage you to reflect.

Beth wrote the email below with support of myself and she has never and would never consider someone from overseas as second class. We both are aware that you are a good, hard-working member of the bank, with plenty of experience.

It is professional to be able to take feed-back and reflect, even if you don't always agree, there are always things we can do better.

I would like you to reflect on the email you sent below. Although I appreciate your frustrations, this email directed at Beth I feel is unjustified and unfair. When, all Beth ever tries to do is support and advocate you and for all the bank staff.

I hope you read this email, with the kind intentions that I have."

37. The Claimant was allocated a shift for 16 July 2024 whereby she would work from 7pm until 9pm on Blake Ward and then from 9pm until 7.30am on SDU. The Claimant emailed an "acute staffing" email address, copying Ms Webber, asking them to record that she would not have a break in the three hours on Blake Ward (page 177). A member of staff manning the acute staffing email account responded to the Claimant on 16 July 2024 (page 179) saying *"I have changed the system for you, however have no control over the breaks other than adding notes as the wards need to correct these before locking down the shifts, if there are any issues you will need to raise this with the ward managers"*. The Claimant forwarded this to "e-rostering" the same day asking them to correct the mistake and saying that she did not have any rest time in the first department (page 179). An administrator from e-rostering responded saying that this mistake had been corrected so that only one hour of rest was recorded for the SDU part of her shift (page 178).
38. On 8 August 2024 the Claimant sent an email to Peter Lewis, the Respondent's Chief Executive, titled "Grievance" (page 190), in which she raised Michelle Groves' email of 3 June 2024, which she described as containing *"unjust accusations"* (page 190), saying that Ms Groves should

not “accept accusations against one employee from just one denunciation unilaterally and without investigating whether it is true” (page 191). She went on to say in relation to Ms Renshaw, that “instead of investigating the truth and actual situation, my line manager is focussing on the rumours spread by colleagues” (page 191). She also raised matters regarding the WhatsApp Group shift allocation and that when her allocation was changed during shift she would be allocated two hours of unpaid rest breaks.

39. The Respondent’s “Resolution (formally known as Grievance)” Policy in force at the time was provided as an additional document during the hearing. This states the following at section 5.1, headed “Informal Stage” at page 6 of the document.

“It is in the best interests of all concerned that colleagues’ issues and concerns be resolved informally wherever possible. Success in resolving issues informally often depends on the ability to identify issues early, focussing on the future or the resolution needed to move forward.

If unsuccessful in resolving the issues directly, a colleague should speak to their immediate line manager at the earliest opportunity to make them aware of the concern and discuss appropriate ways it can be resolved.

If the issue relates to their line manager and the colleague feels unable to raise it directly with them, they should discuss it with the next level manager.”

40. This is followed on the same page with section 5.2, headed “Formal Stage”, which states “*If it has not been possible to resolve the matter informally, a colleague may raise the issue using a formal procedure.*”.

41. Ms Renshaw emailed the Claimant on 16 August 2024 asking to meet in person to discuss the Claimant’s grievance as she had been asked to investigate the points the Claimant had raised (page 186). The Claimant replied on 16 August saying that she was happy to meet in person and discuss it (page 186).

42. Ms Renshaw replied on 20 August 2024 saying the following (page 186).

“How does Friday the 23rd 12:00 sound? At MPH, Blackdown house in our little office at the back?

Given that Beth was involved in the initial concerns raised she will be there with me.

This is purely for support and so that we can both answer all your questions as effectively as we can.

If you feel appropriate, you are welcome to bring someone with you.

To assure you, this meeting is not in any way a negative thing, and instead an opportunity for you to share your thoughts, allow us to listen and to answer as best we can.

Please do let me know if the time or date doesn't suit."

43. The Claimant did not respond, and Ms Renshaw sent a further email to the Claimant on 22 August 2024 asking her to confirm whether she could attend.
44. The Claimant responded on 22 August 2024 saying the following (page 185).

"Yes, I did receive the below message, but unfortunately, I will not agree to attend this meeting due to the following serious reasons:

- 1. I am working tomorrow, which means it is impossible for me to be at two places simultaneously.*
- 2. I did send a grievance, and instead of HR investigating, they are asking to meet you as the line manager involved in the issue and arrange a meeting with another person who is also involved. Is this part of the employment law process? HR and the manager, who are not involved in the issue, must conduct the investigation process and hold meetings. In the email, you said there would be no HR and no note maker, so I am unsure what kind of meeting this is and if it is an official meeting or a conversation. This leads to me not trusting what will happen during this meeting. I don't want to attend meetings without HR, not the involved manager or note maker.*

Please let HR know to follow this investigation process according to the employment law instead of asking you and Beth, the two people involved, to arrange strange meetings."

45. On 28 August 2024, Ms Renshaw emailed the Claimant in response saying the following (page 184).

"I understand that you feel we haven't managed this situation in the best way, and I do want to acknowledge your concerns.

I was hoping to meet with you last week to discuss this matter in person, to listen to your concerns in full, and explain my perspective. If, after our meeting, you wish to proceed with a formal grievance, I will fully support you in doing so.

This approach is in line with the Resolution (previously known as Grievance) policy, which I have attached for your reference. Although as a bank worker, and not an employee of the NHS we are not required to follow the Resolution policy, but we do use it as a guide to ensure we are being supportive.

To assure you, HR and the senior Leadership team, as well as Peter Lewis are aware of your written Grievance and are in agreeance with my current to approach to a resolution. I would appreciate it if you would meet me in person to discuss, alternatively if you still don't feel this is appropriate then I will see (sic) further support."

46. The Claimant declined to meet, emailing Ms Renshaw on 30 August 2024 and saying that the grievance was already formal and that she had already tried unsuccessfully to resolve the issue and that under employment law

she was entitled to a meeting with a manager who was not involved in the concerns she was raising (page 184).

47. Ms Renshaw emailed back on 3 September 2024 (page 188) saying that she had never assumed that Ms Groves' allegations were true, but that feedback was always shared. Ms Renshaw said that based on the Claimant's response and her knowledge of the Claimant's abilities, she had felt that there was nothing further to investigate. Techniques and views as to how to correctly look after a patient could vary between colleagues. Ms Renshaw stated that she was still willing to meet to discuss. The Claimant responded saying the matter was now with ACAS (page 188).
48. There was no formal investigation into the Claimant's grievance.
49. On 16 September 2024 the Claimant began as an employed (rather than "Bank staff") HCA with the Respondent on the Parkside Ward. Robert Williams was the Ward Manager and line managed the Claimant.
50. The Claimant presented her Employment Tribunal Claim on 7 October 2024.
51. There were twelve rooms on the Parkside Ward. I accept Mr Williams' evidence that the Respondent's usual practice was to have two nurses and two HCAs on shift during the day shift and two nurses and one HCA during the night shift. The rooms were divided into rooms one to six which were usually used for private patients recovering from elective surgery and rooms seven to twelve which were generally reserved for patients waiting for a support package before they returned home.
52. It is agreed between the parties that Mr Williams allocated the Claimant to room seven to twelve for her day shift on 26 April 2025. He was not at work on that day. On his return, he received three emails from the Claimant's colleagues on that day, Andrea Jales (Senior Staff Nurse) (page 202), Catherine Celeste (HCA) (page 203) and Xianming Zhang (Staff Nurse) (page 358 and 359). All three colleagues complained that the Claimant had been shouting and behaving unprofessionally because she felt that she had been unfairly treated and discriminated against by allocating her to room seven to twelve, which (according to the complainants) she had said she felt carried a heavier workload.
53. On Tuesday 13 May 2025, Mr Williams became aware and sent a message to the team working on the Parkside Ward informing them that the Yeovil Hospital maternity unit was being shut down with immediate effect due to safety concerns. All maternity services were therefore going to be moved into the Parkside building. The Parkside Ward staff were therefore all going to be moved to Tor Ward by the following Saturday. As part of this team move, the Claimant was moved to Tor Ward from 16 May 2025.

Direct Discrimination

54. The Claimant has made a complaint of direct discrimination, under section 13(1) of the Equality Act 2010 ("EqA"):

“13 Direct discrimination

(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.”

55. As set out in Ayodele v Citylink Ltd & Anor [2017] EWCA Civ 1913, the following three issues may arise in respect of any specific complaint of discrimination:

“(1) Did the alleged act occur at all?

(2) If it did occur, did it amount to less favourable treatment of the claimant when compared with others?

(3) If there was less favourable treatment, what was the reason for it? In particular, was that reason discriminatory?

Accordingly, there may be cases in which the tribunal never has to address question (3), because it is not satisfied that it has been proved on the evidence that the alleged act took place at all; or it may not be satisfied that there was less favourable treatment.”

56. Direct discrimination is based on comparative treatment. It must be established that the Claimant was treated “less favourably” than someone else, who will be either an actual person or a hypothetical person.

57. In order to establish less favourable treatment, like must be compared with like. The actual or hypothetical comparator must be in materially the same circumstances as the Claimant, save that they do not share the protected characteristic. This is set out in section 23 EqA:

“23 Comparison by reference to circumstances

- (1) On a comparison of cases for the purposes of section 13, 14, 19 or 19A there must be no material difference between the circumstances relating to each case.*
- (2) The circumstances relating to a case include a person's abilities if—*
- (a) on a comparison for the purposes of section 13, the protected characteristic is disability”*

58. Identifying a comparator is a question of fact for the Tribunal: Hewage v Grampian Health Board [2012] UKSC 37.

59. In Dr Nicholas Jones v The Secretary of State for Health and Social Care: [2025] EAT 76 HHJ Tayler set out the questions which may arise in relation to a direct discrimination complaint as follows:

“35.1. What is the relevant treatment

35.2. Was that treatment different to that of another person

35.3. Were there any material differences between the circumstances of the claimant and any such other person? (where there are no material differences in circumstances the other person is an actual comparator – where there are material differences, but the circumstances are sufficiently

similar in a more general sense, the other person may be an evidential comparator, whose treatment may assist in deciding whether to draw an inference of discrimination)

35.4. Was the claimant treated differently to how another person would have been treated? (in such circumstances that theoretical person is often described as a hypothetical comparator)

35.5. Are their facts from which the Employment Tribunal could conclude, in the absence of any other explanation, that the respondent breached the EQA

35.6. If so, has the respondent shown that it did not contravene the EQA"

60. Even if the Claimant is treated less favourably than an appropriate comparator, it must have been because of the protected characteristic. This requires the Tribunal to determine the "reason why" the Claimant was treated less favourably. This does not mean that the comparator issue is a threshold to be crossed before "the reason why" is addressed. "[T]his sequential analysis can give rise to problems because sometimes the less favourable treatment issue cannot be resolved without, at the same time, deciding the reason why issue. The two issues are intertwined" [8]: Shamoon v Chief Constable of the Royal Ulster Constabulary [2003] UKHL 11.

61. Discrimination is only made out if the protected characteristic had a "significant influence on the outcome": Nagarajan v London Regional Transport [1999] 4 All E.R. 65. Nagarajan also set out that subconscious intention was sufficient in relation to direct discrimination.

62. Lord Nicholls in West Yorkshire Police v Khan [2001] ICR 1065 made clear that the "reason why" is very different to the question of causation. The Tribunal must make a finding of fact about why the person acted as they did:

"29.....Causation is a slippery word, but normally it is used to describe a legal exercise. From the many events leading up to the crucial happening, the court selects one or more of them which the law regards as causative of the happening. Sometimes the court may look for the "operative" cause, or the "effective" cause. Sometimes it may apply a "but for" approach...The phrases "on racial grounds" and "by reason that" denote a different exercise: why did the alleged discriminator act as he did? What, consciously or unconsciously, was his reason? Unlike causation, this is a subjective test. Causation is a legal conclusion. The reason why a person acted as he did is a question of fact."

Victimisation

63. Under section 27 EqA, a "person (A) victimises another person (B) if A subjects B to a detriment because (a) B does a protected act, or (b) A believes that B has done, or may do, a protected act".

64. Protected acts are set out in section 27(2) EqA. They are:

- (i) bringing proceedings under the EqA (section 27(2)(a) EqA);
- (ii) giving evidence or information in connection with proceedings under the EqA (section 27(2)(b) EqA);
- (iii) doing any other thing for the purposes of or in connection with the EqA (section 27(2)(c) EqA); and/or
- (iv) making an allegation (whether or not express) that A or another person has contravened the EqA (section 27(2)(d) EqA).

65. The EHRC Employment Code, summarises treatment that may amount to a 'detriment' as follows:

"Generally, a detriment is anything which the individual concerned might reasonably consider changed their position for the worse or put them at a disadvantage. This could include being rejected for promotion, denied an opportunity to represent the organisation at external events, excluded from opportunities to train, or overlooked in the allocation of discretionary bonuses or performance-related awards... A detriment might also include a threat made to the complainant which they take seriously and it is reasonable for them to take it seriously. There is no need to demonstrate physical or economic consequences. However, an unjustified sense of grievance alone would not be enough to establish detriment" (paras 9.8 and 9.9).

66. In Shamoon the test was stated to be as follows.

"Is the treatment of such a kind that a reasonable worker would or might take the view that in all the circumstances it was to his detriment? An unjustified sense of grievance cannot amount to "detriment" ... it is not necessary to demonstrate some physical or economic consequence." [35]

67. In Derbyshire and ors v St Helens Metropolitan Borough Council and ors 2007 ICR 841, HL Lord Neuberger stated that *"An alleged victim cannot establish "detriment" merely by showing that she had suffered mental distress: before she could succeed, it would have to be objectively reasonable in all the circumstances."* [68].

68. In Warburton v the Chief Constable of Northamptonshire Police [2022] EAT 42 Griffiths J stated as follows.

"Although the test is framed by reference to "a reasonable worker", it is not a wholly objective test. It is enough that such a worker would or might take such a view. This is an important distinction because it means that the answer to the question cannot be found only in the view taken by the ET itself. The ET might be of one view, and be perfectly reasonable in that view, but if a reasonable worker (although not all reasonable workers) might take the view that, in all the circumstances, it was to his detriment, the test is satisfied. It should not, therefore, be particularly difficult to establish a detriment for these purposes." [51]

69. Section 27 EqA states that victimisation is made out if the claimant is subjected to the detriment "because" of the protected act. The same test applies as set out in relation to direct discrimination referred to above at 61 and 62 – i.e.

whether the protected act had a significant influence on the outcome.

Burden of Proof

70. The provisions relating to the burden of proof are to be found in section 136 of the EqA:

136 Burden of proof

(1) This section applies to any proceedings relating to a contravention of this Act.

(2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.

(3) But subsection (2) does not apply if A shows that A did not contravene the provision.”

71. Efobi v Royal Mail Group Ltd 2021 ICR 1263, SC: the claimant is required to prove, on the balance of probabilities, facts from which, in the absence of any other explanation, the Tribunal could infer an unlawful act of discrimination.

72. Igen v Wong [2005] EWCA Civ 142: it is not sufficient for the claimant simply to prove facts from which the tribunal could conclude that the Respondent “*could have*” committed an unlawful act of discrimination. It is clear that the claimant must prove facts from which the Tribunal could conclude, in the absence of an adequate explanation, that the respondent *did* commit an unlawful act of discrimination it can.

73. It is not sufficient to shift the burden of proof (in relation to a direct discrimination complaint) for a claimant to show only a difference in status and a difference in treatment. These are bare facts which only indicate a possibility of discrimination. They are not, without more, sufficient material from which a tribunal “*could conclude*” that, on the balance of probabilities, the Respondent had committed an unlawful act of discrimination. (Madarassy v Nomura International Plc [2007] EWCA Civ 33 and Leicester City Council v Parmar [2025] EWCA Civ 952).

74. Madarassy further sets out that “*could conclude*” “*must mean that ‘a reasonable tribunal could properly conclude’ from all the evidence before it. This would include evidence adduced by the complainant in support of the allegations of sex discrimination, such as evidence of a difference in status, a difference in treatment and the reason for the differential treatment. It would also include evidence adduced by the respondent contesting the complaint. Subject only to the statutory ‘absence of an adequate explanation’ at this stage (which I shall discuss later) the tribunal would need to consider all the evidence relevant to the discrimination complaint*”.

75. In Artem Limited v Edwins [2024] EAT 136 this was also emphasised by HHJ Tayler, who stated that in relation to considering whether there was sufficient evidence to shift the burden of proof “*an Employment Tribunal should not ignore evidence that suggests discrimination. However, I should also add that it is important that Employment Tribunals do not ignore evidence that suggests there has not been discrimination. What must be ignored at the first stage is*

any exculpatory explanation for the treatment.”

76. Poor treatment in itself is not sufficient to shift the burden of proof: London Ambulance Service NHS Trust v Mr I Sodola (Debarred) [2026] EAT 6.

77. Per Igen, in which the Court of Appeal approving the revised “Barton Guidance” if the burden of proof has moved to the respondent:

“10) It is then for the respondent to prove that it did not commit, or as the case may be, is not to be treated as having committed, that act.

11) To discharge that burden it is necessary for the respondent to prove, on the balance of probabilities, that the treatment was in no sense whatsoever on the grounds of [the protected characteristic] ...

12) That requires a tribunal to assess not merely whether the Respondent has proven an explanation for the facts from which such inferences can be drawn, but further that it is adequate to discharge the burden of proof on the balance of probabilities that [the protected characteristic] was not a ground for the treatment in question.” [76]

Time Limits in relation to discrimination complaints

78. Section 123 EqA provides that:

123 Time limits

(1) Subject to section 140B proceedings on a complaint within section 120 may not be brought after the end of—

(a) the period of 3 months starting with the date of the act to which the complaint relates, or

(b) such other period as the employment tribunal thinks just and equitable.

...

(3) For the purposes of this section—

(a) conduct extending over a period is to be treated as done at the end of the period;

(b) failure to do something is to be treated as occurring when the person in question decided on it.

(4) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—

(a) when P does an act inconsistent with doing it, or

(b) if P does no inconsistent act, on the expiry of the period in which P might reasonably have been expected to do it.”

79. Section 140B EqA permits an extension of time where ACAS early conciliation is undertaken:

“In this section—

Day A is the day on which the complainant or applicant concerned complies with the requirement in subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings) in relation to the matter in respect of which the proceedings are

brought, and

Day B is the day on which the complainant or applicant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section.

(3) In working out when the time limit set by section 123(1)(a) or 129(3) or (4) expires the period beginning with the day after Day A and ending with Day B is not to be counted.

(4) If the time limit set by section 123(1)(a) or 129(3) or (4) would (if not extended by this subsection) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period.

(5) The power conferred on the employment tribunal by subsection (1)(b) of section 123 to extend the time limit set by subsection (1)(a) of that section is exercisable in relation to that time limit as extended by this section.”

80. If the claim is brought outside of the three-month time limit, the Tribunal must make a determination in relation to section 123(1)(b) EqA: whether the claim has been brought within “*such other period as the employment tribunal thinks just and equitable*”.

Should the Tribunal use its discretion to extend time?

81. The Court of Appeal in Abertawe Bro Morgannwg University Local Health Board v Morgan [2018] EWCA Civ 640 summarised the position at paragraphs 18 and 19:

“[18] ... 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 the circumstances to put a gloss on the words of the provision or to interpret it as if it contained such a list ... [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).”

82. Legatt LJ went on to say [25] “As discussed above, the discretion given by section 123(1) of the Equality Act 2010 to the employment tribunal to decide what it “*thinks just and equitable*” is clearly intended to be broad and unfettered. There is no justification for reading into the statutory language any requirement that the tribunal must be satisfied that there was a good reason for the delay, let alone that time cannot be extended in the absence of an explanation of the delay from the claimant. The most that can be said is that whether there is any explanation or apparent reason for the delay and the nature of any such reason are relevant matters to which the tribunal ought to have regard.”.

Discussion and Conclusions: Direct Discrimination

On 3 June 2024, Michelle Groves (Senior Sister) accused the Claimant of poor quality work following her all-day shift on 2 June 2024

83. This allegation is factually made out. The parties agree that Ms Groves sent the Claimant an email in which she fed back to the Claimant comments which had been made about the Claimant's communication and leaving a patient wet.
84. The Tribunal must consider whether there is any prima facie evidence from which the Tribunal could properly conclude that there has been discrimination in order to shift the burden of proof to the Respondent. In this case, there is no actual or evidential comparator to demonstrate that others without the protected characteristics would have been treated differently.
85. The Claimant's submission is that I should look to the fact that the Claimant is Bulgarian and Muslim and has been sent this feedback without first asking for her side of the story or investigating the underlying facts. The Claimant's submission is that Ms Groves would have known her religion because this is clear from her name. I do not consider that this is sufficient evidence from which I could properly conclude that there has been discrimination. There must be some link which could properly be inferred between the protected characteristics and the treatment complained of. I see nothing here which links the two. Merely knowing someone has a protected characteristic does not lead to an inference of discrimination. Further, there is nothing in the act of sending the feedback which I consider inherently discriminatory, such as to infer discrimination.
86. I accept Mr Williams' evidence that Ms Groves has been on long-term sickness absence for a period of around two years and is not expected to return in the near future. As such, I consider that no adverse inference can be drawn in relation to the failure to call Ms Groves as a witness.
87. Taking all of the circumstances into account, but ignoring any explanation given by the Respondent, I consider that there is no prima facie evidence of discrimination in this case: the burden of proof has not shifted to the Respondent.
88. Turning then to the "reason why" test, I take into account the evidence of Ms Renshaw that the Respondent's staff were actively encouraged to pass on feedback and this is consistent with an email sent by Ms Webber contemporaneously (see page 167, and paragraph 33 above). Ms Renshaw's evidence was that it was common practice within the Respondent to pass on feedback to enable colleagues to reflect on their practice. There were no actual or potential practical or disciplinary consequences resulting from the Claimant being given the feedback: she was simply being informed for her own reflection. This is described as being different to raising something as an "incident", with potential disciplinary consequences, which would be a formal matter which would be investigated, rather than simply being passed on. The Claimant's response to the feedback was considered to be her opportunity to put forward her side of what happened.
89. Based on the contents of the email itself, together with Ms Renshaw's evidence

and the contemporaneous emails of Ms Renshaw and Ms Webber, I find that the “reason why” for passing on the feedback to the Claimant was simply that feedback had been received and it was being passed on for learning and reflection purposes.

90. It was normal practice to pass on informal feedback without investigation beforehand, unlike when a formal “incident” was raised, in relation to which there would normally be prior investigation. Therefore, I find that a hypothetical comparator in the role of HCA who was not Bulgarian or Muslim and in relation to whom the same feedback had been received by Ms Groves from a third party, would have received the same feedback from Ms Groves without prior investigation.
91. This complaint of direct discrimination is not well founded and is dismissed.
92. Contrary to the Respondent’s submissions that this alleged act is out of time, I consider that it is in time. The primary three month time limit expired on 2 September 2024. ACAS notification was before this, on 22 August 2024. This means that the Claimant had at least a month to present her claim after the ACAS certificate was issued, on 19 September 2024. She did present it within that time, on 7 October 2024.

Kristina Renshaw (Temporary Staffing and E-Rostering Clinical Manager) and/or HR failed to investigate the accusation detailed at paragraph 2.2.1

93. Both parties have understood this allegation to be in relation to the failure to investigate the Claimant’s concerns/grievance arising from this feedback.
94. As set out above in my findings of fact, the sequence of events here is that the Claimant raised this by email, but then also later raised a formal grievance in relation to this matter on 8 August 2024. In her written grievance, the Claimant expressly complained about Ms Renshaw’s handing of this (page 191).
95. The Tribunal must consider whether there is any prima facie evidence from which the Tribunal could properly conclude that there has been discrimination in order to shift the burden of proof to the Respondent. In this case, there is no actual or evidential comparator to demonstrate that others without the protected characteristics would have been treated differently.
96. It is unclear to me why the Respondent says there is proper basis for excluding bank staff who make a discrimination allegation from the “Resolution” or grievance policy, which appears to be a policy broadly reflecting ACAS Code requirements in relation to the handling of grievances. It is also unclear to me how the Respondent’s submission that the approach in relation to the Claimant was nevertheless in line with that policy, when the policy states in relation to the informal stage (paragraph 5.1) that *“If the issue relates to their line manager and the colleague feels unable to raise it directly with them, they should discuss it with the next level manager.”*
97. It appears reasonable to me that the Claimant would wish to discuss her grievance with an independent manager. I take the view that when the Claimant made clear that she did not want to engage with the informal stage, and that she did wish to progress the grievance formally, it would have been in line with the ACAS Code for the Respondent to take the grievance forward

formally. Making the Claimant's refusal to engage informally with someone about whom she was making a complaint a barrier to the progression of her grievance is not in line with the ACAS Code or indeed natural procedural fairness.

98. Nevertheless, poor treatment in itself is not sufficient to, and there is nothing else in the facts of this case from which I could, draw an inference that taking the approach that the Respondent did was because of the Claimant's race or religion. Taking all of the circumstances into account, but ignoring any explanation given by the Respondent, I consider that there is no prima facie evidence of discrimination in this case: the burden of proof has not shifted to the Respondent.

99. Turning to the "reason why" test, Ms Renshaw's evidence, which I accept, is that she/the Respondent wanted to seek to resolve the Claimant's grievance informally first. Once there had been an informal meeting, it would have been dealt with more formally. In practice, this was effectively pursued as a mandatory first stage, despite the Claimant's expressed unhappiness that someone who was the subject of her complaint was being put forward to resolve this.

100. I found Ms Renshaw's evidence credible that she had been instructed by senior management and HR that this was the correct approach and that she hoped herself that a constructive informal discussion with the Claimant would help resolve the Claimant's grievance. She understood that she was following the correct policy and felt that the matter could not go any further without the Claimant's engagement. I find this is the "reason why" she behaved in this manner.

101. I find that a hypothetical comparator in the role of a bank HCA who was not Bulgarian or Muslim who had complained about their manager but then refused a meeting with them to discuss it informally, would have been treated in the same way.

102. This allegation is not well founded and is dismissed.

On 7 June 2024, Megan Greenway failed to respond to the Claimant's messages on the Bank HCA and SDU WhatsApp group and failed to allocate shifts to her

103. This allegation is factually made out.

104. The Tribunal must consider whether there is any prima facie evidence from which the Tribunal could properly conclude that there has been discrimination in order to shift the burden of proof to the Respondent.

105. There is nothing which would point to a link between Ms Greenway's failure to respond or allocate the Claimant the shift and the Claimant's race and/or religion. I find that the burden of proof has not shifted. Whether or not Ms Greenway could guess the Claimant's race and/or religion from her name, which the Claimant suggests she could, but Ms Greenway says she did not, is (even if true) very far from sufficient evidence from which I could infer discrimination.

106. I accept Ms Greenway's evidence that the WhatsApp group was a

way of alerting HCAs who worked regularly with that ward that new shifts had been posted into the system. This would then enable them to log into the online shift booking system using their bank worker log in details and book the shift, when they might otherwise not have realised that a new shift had been made available. Whilst she would assist if she could with booking shifts, the main purpose was notification. Ms Greenway was not just in a management role, she also did clinical work. I accept her evidence that on 10 June 2024 she was dealing with a busy ward, so posted the shifts on the system, messaged the WhatsApp group, and immediately returned to her clinical work helping an elderly patient who had had a bleed on his head. By the time she was able to read her WhatsApp messages at around 12.46, someone else had already booked the shift so she wrote a message reflecting this to the Claimant. If the Claimant had immediately done so, it would have been open to the Claimant to log into the shift booking system herself or telephone the relevant team and book the shift, but she had not done so. This evidence is consistent with the contemporaneous messages on the WhatsApp messages.

107. I find the “reason why” Ms Greenway failed to respond is that she was busy with urgent clinical duties. I find the “reason why” she did not allocate the shift to the Claimant is that someone else had already booked the shift by the time that she saw the Claimant’s request.

108. I find that a hypothetical comparator in the role of a bank HCA who was not Bulgarian or Muslim who had replied to the message about the shift at the same time would have been treated in the same way as the Claimant was. The difference between the Claimant and the person who obtained the shift appears to be simply that they logged in or telephoned the booking team and booked it proactively themselves, rather than asking Ms Greenway to do it for them.

109. This allegation is not well founded and is dismissed.

110. Contrary to the Respondent’s submissions that this alleged act is out of time, I consider that it is in time. The primary three month time limit expired on 6 September 2024. ACAS notification was before this, on 22 August 2024. This means that the Claimant had at least a month to present her claim after the ACAS certificate was issued, on 19 September 2024. She did present it within that time, on 7 October 2024.

On 16 July 2024, the Respondent’s acute staffing team allocated the Claimant 2 hour unpaid breaks during their shifts

111. This allegation is factually made out.

112. As with the allegations above, there is simply nothing from which I could properly conclude any link with the Claimant’s race or religion whatsoever. The burden of proof has not shifted.

113. I find, based on Ms Renshaw’s evidence that the system would automatically allocate two breaks to staff members who moved wards mid-shift. This is also consistent with the Claimant’s evidence that it would happen every time she moved wards mid-shift. As Ms Renshaw pointed out, the system was not conscious of the race or religion of those to whom it allocated breaks. It simply did so automatically. It was then up to the Ward Manager to

record whether a break had been taken or not. If a mistake was made, it could be corrected, as it was in this case when the Claimant raised it. Therefore, the “reason why” the Claimant was allocated two breaks is that this was done automatically by the booking system in relation to anyone moving between wards in the middle of a shift.

114. I find that a hypothetical comparator who was not Bulgarian or Muslim and who was moving wards mid-shift, would also have been allocated two breaks.

115. This allegation is not well founded and is dismissed.

On 14 April 2022, the Respondent gave the Claimant an EOL account to book her bank shifts under the username ‘Nina Ali’ instead of using her preferred Muslim name, ‘Halima Dimitrova Ali’, as confirmed by an email from Amanda Bradley (Bank Induction and Training Co-Ordinator)

116. This allegation is factually made out.

117. On the facts as I have found them, ignoring the Respondent’s explanation, there is nothing from which I could properly infer discrimination.

118. I have found as a fact that the Claimant recorded her preferred name as Nina on her starter form, albeit that this was a mistake on her part.

119. I find that the “reason why” the Claimant was given this username is because she filled in her preferred name as Nina. This is based on the evidence of Ms Bradley which is consistent with the contemporaneous explanation (page 131).

120. I find that a hypothetical comparator who was not Bulgarian or Muslim would also have a username allocated to them reflecting the preferred name they had put into the starter form.

121. This allegation is not well founded on its merits.

122. I consider that the claim was presented outside of the primary time limit for act. The primary three month time limit expired on 13 July 2022. ACAS notification was after this, on 22 August 2024. Therefore, there is no extension to the time limit for ACAS conciliation. The Claim was presented on 7 October 2024, over two years out of time.

123. I must consider whether it is just and equitable to extend time. The Claimant’s position is that she was not aware of time limits or legal rights at this time. The Respondent has not put forward a submission in relation to any practical implications of the delay. I can take merits into account when considering a just and equitable extension of time. Considering all of the circumstances in the round, balancing the prejudice between the parties, the greater prejudice is suffered by the Respondent than by the Claimant if time is extended in relation to a complaint that is not well founded. I find that it is not just and equitable to extend time.

124. This complaint is dismissed for want of jurisdiction.

Victimisation

The Claimant's line manager, Mr Williams, failed to allocate her different duties from 26 April 2025. She alleges that she ought to have been rotated around other rooms/wards but, instead, she was directed to stay working on rooms 7-12 of the private section, which accommodated higher dependency patients

125. The parties agree that the Claimant's presentation of this claim on 7 October 2024 was a protected act.
126. The parties agree that the Claimant was allocated to rooms seven to twelve on 26 April 2025.
127. The Claimant's position is that she raised the fact that she was making a claim with Mr Williams at her interview. I find, in line with the email she sent him afterwards (at page 190), that she told him it would "probably" reach the Employment Tribunal at interview stage. He still offered her the role that she was applying for.
128. There is no prima facie evidence from which I could properly conclude that the allocation of the Claimant to rooms seven to twelve was because of the Claimant presenting the claim. The fact that Mr Williams offered her a job when she had told him that she was potentially bringing a claim against the Respondent indicates the opposite. There is nothing to shift the burden of proof to the Respondent.
129. Mr Williams gave oral evidence, which was not challenged by the Claimant, that he was not aware of the Claimant actually bringing the claim until mid-June 2025 (after the date of the alleged detriment), when she told him herself that she has done so. He was aware she may do so, as she had told him in the interview, but he offered her the permanent role in this knowledge, which supports his account that he was not motivated by this protected act.
130. I accept Mr Williams' evidence and find that the "reason why" for the allocation on 26 April 2025 was to do with skill mix and continuity of care. Mr Williams decided to allocate the two longer serving members of staff to rooms 1 to 6 that day. Based on patient needs he felt more experience was needed for those rooms. He understood the other HCA to have more experience with private patients, so allocated her to those rooms.
131. The complaint is not well founded.
132. This allegation was added by amendment on 30 July 2025. This is after the primary limitation period has expired on 25 July 2025.
133. I must consider whether it is just and equitable to extend time. The Claimant's position is that she was not aware of time limits or legal rights at this time. The Respondent has not put forward a submission in relation to any practical implications of the delay. I can take merits into account when considering a just and equitable extension of time. Considering all of the circumstances in the round, balancing the prejudice between the parties, the greater prejudice is suffered by the Respondent than by the Claimant if time is extended in relation to a complaint that is not well founded. I find that it is not just and equitable to extend time.

134. This complaint is dismissed for want of jurisdiction.

The Claimant's line manager, Mr Williams, allocated her to Tor Ward from 16 May 2025

135. The parties agree that all members of staff on Parkside Ward were moved to Tor Ward at this time because of the emergency closure of the maternity provision in Yeovil. Maternity services were therefore being moved to the Parkside building. Without considering shifting burden of proof, it is clear that the reason for moving the Claimant was not because she presented a claim. Every other person was also moved in the same way. This is very strong evidence the motivation was nothing to do with the Claimant presenting her claim.

136. I find the "reason why" the Claimant was allocated to Tor Ward is because all members of staff on the Parkside ward were being moved due to the closure of the maternity in Yeovil which meant the Parkside ward space was needed for maternity provision instead.

137. This allegation was added by amendment on 30 July 2025 and is in time. The primary limitation period expired on 15 August 2025.

138. This complaint is not well founded and is dismissed.

**Approved by
Employment Judge Volkmer
23 February 2026**

JUDGMENT & REASONS SENT TO THE PARTIES ON
26 February 2026

Jade Lobb
FOR THE TRIBUNAL OFFICE