



EMPLOYMENT TRIBUNALS

Claimant: Miss E Wilson

Respondent: Viaduct Care CIC

HELD AT: Manchester

ON: 19-27 January 2026

BEFORE: Regional Employment Judge Franey
Ms F Crane
Ms A Berkeley-Hill

REPRESENTATION:

Claimant: In person

Respondent: Ms L Amartey, Counsel

WRITTEN REASONS

Introduction

1. Oral judgment with reasons was given at the conclusion of the final hearing. The written judgment was approved on 27 January 2026 and will be promulgated separately. The claimant has requested these written reasons.

2. The claimant was employed in a finance role by the respondent, a federation of General Practitioner practices, between 18 May and 20 December 2023, when her employment was terminated during her extended probationary period.

3. On 28 March 2024 she presented a claim form bringing complaints of discrimination because of or related to her race, relying on the fact that she is a South African national, and because of or related to her religious belief as a Christian. The claim form included particulars of claim running to 19 pages which set out a detailed chronology of events. The main themes included issues with excessive noise in the office which prevented the claimant getting on with her work, and the effect of some postings about religious topics which she had made on the work Teams channel. Her probationary period had been extended in late November 2023 but following a review

meeting on 14 December she had been dismissed. Her appeal against dismissal had been rejected.

4. The response form denied any breach of the Equality Act. It said there had been a number of concerns about the behaviour of the claimant towards other people in the office, and it relied in particular on incidents on 23 and 24 November 2023 which had precipitated the decision to review her probation and subsequently terminate her employment. It denied that her nationality or her Christian beliefs had played any part in the way she was treated.

5. The legal complaints were clarified and recorded by Employment Judge Slater following a case management hearing on 31 July 2024. The List of Issues attached to that Order set out 11 allegations of direct discrimination because of religious belief, 17 allegations of harassment related to religion, and 4 allegations of harassment related to race or nationality. There were 32 allegations in all, although some matters featured as two different types of legal claim. The multiplicity of allegations, many about apparently minor office interactions, accounted for the length of this hearing and of these reasons.

6. The grounds of resistance were amended twice as the position in relation to particular documents became clear.

7. The case had been listed for a final hearing in November 2025 but there was no judge available so it was postponed to be heard in January 2026.

The Issues

8. At the start of the hearing we sought to clarify with the parties whether the List of Issues set out by Employment Judge Slater remained accurate. The claimant asked about two matters not in the List of Issues. The first was whether there was a breach of contract claim in relation to the respondent's duty of care for her health. The Tribunal explained that we had no jurisdiction over such claims, which had to be brought in the County Court, but that if the claimant succeeded in establishing a breach of the Equality Act then the impact on her health could form part of the compensation awarded. The second related to a breach of mutual trust and confidence but the Tribunal explained that where there was an actual dismissal, as opposed to a resignation said to be a "constructive dismissal", there was no issue to determine about whether there was any conduct in breach of that implied contractual term.

9. The claimant also raised in that initial discussion that she had been suffering from anxiety and that she was being assessed by medical professionals for any neurodivergent traits. It appeared she was contemplating seeking permission to amend her claim to complain of disability discrimination. The Tribunal informed the claimant that it would be too late to seek to do so. That was because the balance of prejudice and hardship test under **Selkent Bus Co Limited v Moore [1996] ICR 836** could only have resulted in any such application being refused. Even if a written application had been made, wholly new factual and legal matters would have been introduced (such as whether the claimant had been a disabled person during her employment in 2023, and, if so, the extent of the respondent's knowledge of this), and the fact any such application would be long out of time would have counted heavily against permitting the amendment. Permitting any such amendment would have

prejudiced the respondent forensically: it would have to be allowed time to respond to the amendment and to gather evidence on those new factual matters more than two years after the relevant period. It would therefore have made a postponement of the final hearing inevitable. The final hearing had already been delayed. However, the Tribunal explained that if the impact on the claimant of any unlawful treatment was greater than it would otherwise have been because of any neurodivergent traits, that could be taken into account in assessing compensation. No application to amend was made.

10. Following that discussion both parties confirmed that the List of Issues remained as set out by Employment Judge Slater. However, by the time the evidence had concluded the claimant had refined her case by withdrawing some of the allegations against particular individuals, and by withdrawing in their entirety allegations 2.1.13, 3.2.1, 3.2.3 and 3.2.4.

11. When the Tribunal started its deliberations the list of issues we had to decide was as follows:

1 DIRECT DISCRIMINATION: - RELIGION OR BELIEF

1.1 *The Claimant relies on her religious belief of Christianity.*

1.2 *Did the Respondent treat the Claimant less favourably than the comparator by:*

1.2.1 *After the Claimant posted about Christian beliefs on 30 August 2023 (paras 11 and 14) by responding to Glyn Williams: Sara Bracken, Rachel Adshead, Kirsty Conroy, and Hannah Tomlinson changed their demeanour towards the Claimant [first bullet] by being less friendly, and they were sometimes uncomfortable and seemed annoyed with the Claimant. Sara Bracken became intense in her tone and mannerisms towards the Claimant, as if there was a frustration and strong dislike of the Claimant's presence.*

1.2.2 *On 13 September 2023 and 17 October 2023, Stephanie Ratcliffe assured the Claimant that there were no issues, even though there were issues (para 18/bullet 2; paras 43 and 44).*

1.2.3 *On 29 October 2023 Glyn Williams posted a picture of himself dressed in a red devil costume with the number 666 very visible (para 53/bullet 6).*

1.2.4 *On 31 October 2023 Glyn Williams posted another picture of himself dressed up for Halloween (para 55/bullet 6).*

1.2.5 *On 21 November 2023, Graham Rose extended the Claimant's probation by 3 months.*

1.2.6 *On 21 November 2023, Graham Rose commented that he was concerned that the Claimant would become offended by what other people posted on group chats, due to the Claimant being strongly religious, and because other people have different beliefs / views and religions than the Claimant (paras 60 and 70/bullet 9).*

- 1.2.7 *On 30 November 2023, inviting the Claimant into a Formal Hearing for an incident that was resolved and for a conversation with Hannah Tomlinson, without first engaging with mediation, and without clearly discussing the anonymous issues raised (paras 82 and 83).*
- 1.2.8 *Including in the case against the Claimant from management for the Formal Hearing on 14 December 2023 (bullet 2):*
 - 1.2.8.1 *That the Claimant posted a question about a case regarding a Christian patient on 1 September 2023 (para 16);*
 - 1.2.8.2 *That, on 19 September 2023, the Claimant posted a link to a Christian song on a chat about Christmas, (para 19).*
- 1.2.9 *On 20 December 2023 dismissing the Claimant.*
- 1.2.10 *By not permitting a trial of a different arrangements instead of dismissal – working from home, working at 3 Piccadilly Place or at an office to be rented by the claimant (para 84/bullet 8).*
- 1.2.11 *On 30 January 2024 rejecting the Claimant's appeal (para 98, 99 and 100).*
- 1.3 *Was the claimant was treated less favourably than someone in the same material circumstances of a difference religious belief was or would have been treated? The claimant says she was treated worse than the colleagues with different views referred to by Graham Rose. Alternative, the claimant relies on a hypothetical comparison.*
- 1.4 *Was the treatment because of the Claimant's religion or belief?*

2 HARASSMENT RELATED TO RELIGION OR BELIEF (SECTION 26)

- 2.1 *Did the Respondent engage in the following conduct:*
 - 2.1.1 *On 4-6 September 2023, until the move on 20 September 2023, Hannah Tomlinson and Kirsty Conroy planned to put the printer within the allocated quiet corner (para 23).*
 - 2.1.2 *From 7 September 2023, Sara Bracken and Hannah Tomlinson increased the frequency at which they would enter either office space that the Claimant was sitting in due to arrangements for the office move, that increased the noise levels around the Claimant. Jamie Adshead frequently entered the office space that the Claimant was using to shred documents, but not as frequently, if at all, while the Claimant was sitting in the other office space (para 18).*
 - 2.1.3 *On 12 September whilst many of the staff were packing up the office, Kirsty Conroy commented that she does not think that the design of the new office premises is going to work for the allocated quiet corner (bullet 2).*
 - 2.1.4 *On 19 September 2023, following the Claimant posting a link to a Christian song on a chat about Christmas, at the end of the day Sara*

Bracken and/or Rachel Adshead turned the lights off even though the Claimant was still present in the office (paras 18, 20 and 22/bullet 2).

- 2.1.5 On 21 September 2023 there were a number of interruptions from colleagues while the Claimant was trying to process payments, and primarily from Sara Bracken after the Claimant specifically chose to work from the old office premises in order to avoid interruptions (para 25).*
- 2.1.6 By not permitting the Claimant a trial of working from the 3 Piccadilly Place office premises or renting a separate office space (para 30).*
- 2.1.7 On 12 October 2023, Sara Bracken took the Lord's name in vain (para 38).*
- 2.1.8 On 17 October 2023 Sara Bracken and Stephanie Ratcliffe ts created excessive noise within close proximity to the Claimant (para 42).*
- 2.1.9 The day after the Claimant responded to a post related to Halloween (para 55/bullet6) with a link to a Christian article, on 1 November 2023, Susan Thomason and Sara Bracken were present in the office when there was excessive noise, and the Claimant needed to ask those that were present to lower the volume (para 57/bullet 7).*
- 2.1.10 On 2 November 2023 there was excessive noise from Hannah Tomlinson as Glyn Williams mentioned this on a Microsoft Teams chat to the Claimant (para 58/bullet 8).*
- 2.1.11 On Monday 6 November 2023, there was excessive noise from the conversation that Stephanie Ratcliffe and Rachel Adshead were having (paras 52 and 61).*
- 2.1.12 7 November 2023 Stephanie Ratcliffe, Hannah Tomlinson, Suzanne Thomason, Rachel Adshead and Kirsty Conroy were working from the office premises when there was excessive noise (para 63).*
- 2.1.13 [withdrawn]*
- 2.1.14 On 21 November 2023 Graham Rose extended the claimant's probation period by 3 months without prior warning to first resolve any issues in order to pass the 6 month probation period (paras 67, 60, 70, 71, 72, and 73).*
- 2.1.15 Graham Rose commented that he was concerned that the Claimant would become offended by what other people posted on group chats, due to the Claimant being strongly religious, and because other people have different beliefs / views and religions than the Claimant (paras 70 and 71 /bullet 9)*
- 2.1.16 On 23 November 2023 Hannah Tomlinson stood within close proximity to the Claimant and had a very loud conversation (para 74).*
- 2.1.17 On 28 November 2023, the Claimant's colleagues, during an MS Teams Meeting, were jollier than usual (para 79/bullet 10) in that they were*

making jokes about stress and Kirsty Conroy ignored the claimant when she tried to get her attention.

- 2.2 *Was such conduct unwanted?*
- 2.3 *Did the conduct relate to the protected characteristic of religion or belief?*
- 2.4 *Did any such conduct have the purpose or effect of:*
 - 2.4.1 *Violating the dignity of the Claimant or*
 - 2.4.2 *Creating an intimidating, hostile, degrading, humiliating or offensive environment for the Claimant.*
- 2.5 *In determining whether conduct had that effect, the Tribunal will take into account the claimant's perception, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.*

3 HARASSMENT RELATED TO RACE (SECTION 26)

- 3.1 *The claimant relies on her ethnicity as South African.*
- 3.2 *Did the Respondent engage in the following conduct:*
 - 3.2.1 *[withdrawn]*
 - 3.2.2 *On 4 October 2023, Graham Rose sent out an email that contained:*

'be aware that Elaine is very religious and that some of the colloquial terms that we may consider acceptable in the UK can be offensive to her.' (para 33).
 - 3.2.3 *[withdrawn]*
 - 3.2.4 *[withdrawn].*
- 3.3 *Was such conduct unwanted?*
- 3.4 *Did the conduct relate to the protected characteristic of race?*
- 3.5 *Did any such conduct have the purpose or effect of:*
 - 3.5.1 *Violating the dignity of the Claimant; or*
 - 3.5.2 *Creating an intimidating, hostile, degrading, humiliating or offensive environment for the Claimant?*
- 3.6 *In determining whether conduct had that effect, the Tribunal will take into account the claimant's perception, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.*

12. The original list of issues also included time limit issues for any alleged breaches of the Equality Act 2010 which occurred prior to 8 November 2023. As we found that there had been no such breach we could not conclude that there had been any "continuing act" of discrimination, and nor did we need to decide it if would have

been just and equitable to extend time. The time limit issues fell away.

Evidence

13. The parties had agreed a bundle of documents in two lever arch files which ran to over 1,000 pages. Any reference to page numbers in these reasons is a reference to that bundle unless otherwise indicated.

14. The Tribunal heard live evidence from 11 witnesses, each of whom had provided a written witness statement.

15. The claimant was the only witness on her side. Her witness statement incorporated the contents of the particulars of claim attached to her claim form and she confirmed on oath that both the witness statement and particulars of claim were true.

16. A witness from whom we did not hear was Kirsty Conroy. She sent an e-mail on 30 November 2023 (page 514) which expressed concerns about the way the claimant had been behaving. The claimant did not see the e-mail until after her employment ended. Her application for a witness order for Ms Conroy made before our hearing had been refused because the claimant wanted to cross-examine her, not call her as part of her own case.

17. The respondent called the following witnesses, each of whom held the relevant job title at the time:

- **Graham Rose** was the Director of Finance and Contracts and the claimant's direct line manager. He decided to extend her probationary period and recommended that matters proceed to a final probationary review hearing.
- **Stephanie Ratcliffe** was the Director of Services and part of senior management.
- **Christopher Roberts** was a Business Intelligence Manager who interviewed and appointed the claimant and was involved in some of the events which gave rise to this case.
- **Glynn Williams** was a Business Intelligence Analyst who worked with the claimant.
- **Hannah Tomlinson** was a Human Resources ("HR") Business Partner.
- **Rachel Adshead** was an HR Business Partner.
- **Sara Bracken** was the Head of Operations.
- **Nengi Ahuchogu** was the Service Administrator for Physiotherapy.
- **Viren Mehta** was the General Practitioner Chief Officer of the respondent who decided to terminate the claimant's employment.

- **Grenville Page** was a non-executive Director of the respondent who heard the appeal against dismissal.

Relevant Legal Principles

18. The complaints of race discrimination and harassment were brought under the Equality Act 2010 (“the Act”).

19. Discrimination against an employee is prohibited by section 39(2) Equality Act 2010:

“An employer (A) must not discriminate against an employee of A's (B) –

- (a)
- (b)
- (c) by dismissing B;
- (d) by subjecting B to any other detriment.”

20. A “detriment” includes anything which the claimant can reasonably see as disadvantageous: **Shamoon v The Royal Ulster Constabulary [2003] ICR 337**.

21. Harassment during employment is prohibited by section 40(1)(a).

22. The protected characteristic of race is defined by section 9(1) as including colour, nationality or ethnic origins. Section 10 makes it clear that the protected characteristic of religion or belief encompasses a person of a particular religion.

Direct Discrimination

23. The definition of direct discrimination appears in section 13 and so far as material reads 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”.

24. The concept of treating someone “less favourably” inherently requires some form of comparison, and section 23(1) provides that:

“On a comparison of cases for the purposes of section 13 ... there must be no material differences between the circumstances relating to each case”.

25. It is well established that where the treatment of which the claimant complains is not overtly because of race, the key question is the “reason why” the decision or action of the respondent was taken. This involves consideration of the mental processes of the individual responsible: see, for example, the decision of the Employment Appeal Tribunal in **Amnesty International v Ahmed (2009) IRLR 884** at paragraphs 31-37 and the authorities there discussed.

Harassment

26. The definition of harassment appears in section 26 which so far as material reads as follows:

- “(1) A person (A) harasses another (B) if -
- (a) A engages in unwanted conduct related to a relevant protected characteristic, and
 - (b) the conduct has the purpose or effect of
 - (i) violating B's dignity, or
 - (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B...
- (4) In deciding whether conduct has the effect referred to sub-section (1)(b), each of the following must be taken into account -
- (a) the perception of B;
 - (b) the other circumstances of the case;
 - (c) whether it is reasonable for the conduct to have that effect.
- (5) The relevant protected characteristics are ...race; religion or belief;...”.

27. As to the kind of behaviour which might contravene section 26, the EAT in **Richmond Pharmacology v Dhaliwal (2009) ICR 724** said in paragraph 22 that

“...not every racially slanted adverse comment or conduct may constitute the violation of a person's dignity. Dignity is not necessarily violated by things said or done which are trivial or transitory, particularly if it should have been clear that any offence was unintended. While it is very important that employers, and tribunals, are sensitive to the hurt that can be caused by racially offensive comments or conduct (or indeed comments or conduct on other grounds covered by the cognate legislation to which we have referred), it is also important not to encourage a culture of hypersensitivity or the imposition of legal liability in respect of every unfortunate phrase.”

28. The Court of Appeal said in **Grant v HM Land Registry [2011] EWCA Civ 769** the following:

“Tribunals must not cheapen the significance of these words. They are an important control to prevent trivial acts causing minor upsets being caught by the concept of harassment.”

29. We were mindful of the Code of Practice on Employment issued by the Equality and Human Rights Commission in 2015, particularly chapter 7 which deals with harassment. Paragraph 7.18 supports the view that conduct is unlikely to be viewed as having the proscribed effect if the person offended is being hypersensitive and another person would not have been offended.

Burden of Proof

30. The burden of proof provision appears in section 136 and 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 the provision”.

31. In **Hewage v Grampian Health Board (2012) ICR 1054** the Supreme Court approved guidance given by the Court of Appeal in **Igen Limited v Wong (2005) ICR 931**, as refined in **Madarassy v Nomura International PLC (2007) ICR 867**. In order for the burden of proof to shift in a case of direct race discrimination it is not enough for a claimant to show that there is a difference in race and a difference in treatment, and to assert that the former is the reason for the latter. In general terms, “something more” than that would be required before the respondent is required to provide a non-discriminatory explanation. These authorities were recently analysed by HHJ Tayler in paragraphs 18 – 44 of **London Ambulance Service NHS Trust v Sodola [2026] EAT 6**.

32. For harassment complaints the claimant has to establish facts from which the Tribunal can properly find all elements of the statutory definition established before the burden shifts to the respondent to show that section 26 has not been contravened.

33. However, whether the burden of proof has shifted is in general terms to be assessed once all the evidence from both parties has been considered and evaluated. In some cases, however, the Tribunal may be able to make a positive finding about the reason why a particular action is taken which enables the Tribunal to dispense with formally considering the two stages.

Findings of Fact

34. This section of our reasons sets out the broad chronology of events, recording matters which were not contested or, if disputed, were not of particular significance. Disputes of primary fact about matters central to our conclusions will be addressed in the discussion and conclusions section. To aid navigation the numbered issues or allegations in the list of issues above will be marked by sub-headings.

The Respondent and its Premises

35. The respondent is a federation of medical practices providing healthcare services for the people of Stockport. It employs approximately 200 staff.

36. Prior to September 2023 it was based at premises at Kingsgate House in Stockport. The Corporate Support Team were based in the main office, which was open plan. There were “clinic rooms” available on the ground floor, and a room known as the service centre.

37. The services which were provided from the clinic rooms ceased to be provided and it became apparent that the premises were too large for the respondent. A break clause in the lease effective from 1 October 2023 was exercised and an office move occurred in September 2023.

The Claimant and her Role

38. The claimant moved from South Africa to the UK and after studying business worked in a number of administration and finance roles, including time working at a law firm.

39. In April 2023 she applied for the role of Corporate Support Officer in Finance, and was interviewed by Mr Rose and Mr Roberts on 2 May 2023. She was successful.

40. Her contract of employment appeared at pages 87-94. Clause 1.1 said there was a minimum probationary period of six calendar months.

41. The claimant's job description appeared at pages 95-99. It was accompanied by the person specification for the role. That appeared at pages 100-101. Amongst the essential criteria were the following:

"Excellent communication skills, ability to build strong working relationships with all levels and groups of staff on information related issues..."

Ability to integrate within a team environment."

42. The claimant is a Christian, and this formed a major part of her life outside work. During the recruitment process she provided some information about her work with the church. In a later message to Mr Williams (page 144) she described her personal life as all revolving around Jesus Christ.

43. The claimant also described herself as an introvert. In a message to Ms Ratcliffe on 29 September 2023 (page 137) she explained her position as follows:

- "**
- I am an introvert and generally tend to listen more than speak, so there is no need for anyone to be concerned if I am quiet.**
 - I normally sit quietly and do the work; I would not naturally be a person that would be making noise and drawing attention. I don't like a lot of attention or fuss to be made of me, I am however having a very high level of empathy and compassion ...**
 - People don't need to wonder if I am okay because I will look for help if I need it, but I do appreciate that people care, and I do care as well – I just don't naturally constantly look for conversation, but if I am in a social setting then I would engage or I do try to think of ways to connect or ask questions etc. It is just nowhere near the level that other people do it.**
 - I think it might be helpful for people to know that sometimes it can feel like harassment if too many people seem to be checking in or making connection in a single day because it looks and feels like there is an issue, when the person is just trying to get their job done and there is no issue."**

July and August 2023

44. An important feature of this case is that the noise and interruptions in the open plan main office made it difficult for the claimant to concentrate on her work, particularly those parts of it that required particular concentration such as setting up payments. For that reason she began early on to take herself away from the main office and work in a clinic room or the service centre so that she could get on with her work.

45. On 18 July 2023 the claimant contacted Ms Tomlinson on Teams (page 211) asking if she could view when clinic rooms were booked. She explained that she was introverted and needed a quiet space to concentrate on her work. She would of course carry on attending social events. Ms Tomlinson responded in a supportive manner and arrangements were made for the claimant to work in the service centre. That was a room less likely to be used for meetings as it contained medical supplies.

46. In an e-mail of 21 September 2023 to Mr Rose (page 128) she explained that there was another reason as well:

“And one of the reasons I started sitting on my own is because people seem to have an issue with the fact that I am quiet and not always chatting in the office, as well as the amount of time people would use the Lord’s name in vain. (I know it’s just a slang word and a part of people’s language nowadays, but I do believe that He exists and that it is rude to use His name as just a slang word).”

47. However, it was clear that even when the claimant took herself to a different office to work in quiet she was still occasionally interrupted by people asking her things. She made that plain in the same e-mail to Mr Rose.

Issue 1.2.1 and the posts of 30 August 2023

48. This issue concerned the aftermath of some posts made on the work Teams channel after 30 August 2023. Mr Williams posted some photographs he had taken before the start of the Pride parade that weekend. His post appeared at page 827.

49. The claimant made the post at page 828 which provided a link to an article about a tour by the evangelist Billy Graham, and which said as follows:

“The God Loves You tour took place on the same day. I love Jesus Christ so much! I am so grateful for the massive price that He paid for all of us because He loves us all so so so much. The pain He went through, yet He was innocent – it makes me want to cry each time I think of cavalry [sic] and what He went through for us. I also love his word and do my best to live it out with the help of the holy Spirit. By the way I am here in the UK because God has called me here through a prophetic word, and as tough as it has been I can’t imagine a life without seeking and walking with Jesus Christ to live out His plans and purposes as best I can.”

50. It was followed a few minutes later by another post from the claimant saying that it would be nice if there were a combined parade against all hate crime and all discrimination, and not just "for SOME people". She said it was crazy that churches were being burnt down.

51. Mr Williams responded by saying that a world without hate and discrimination would be a far better place for all. The claimant then posted a link to a movie called "Sound of Freedom" which she said she hoped would bring about awareness of the increase of trafficking, grooming gangs, crime and more.

52. Allegation 1.2.1 was that after these posts the demeanour of Ms Tomlinson, Ms Adshead, Mrs Bracken and Ms Conroy changed and that they treated her in a negative way in the weeks and months that followed. She believed that this was an adverse reaction to her posting about her religious beliefs and therefore amounted to direct religious belief discrimination. The witnesses denied any such reaction, and Mrs

Bracken said she had not even noticed the posts in question. There was a dispute of primary fact about what happened in this period, and why, and we will return to it in our conclusions.

53. On 1 September 2023 the claimant made a further post linking to an article about a critically-ill teenager who wanted to seek an experimental treatment abroad but was being denied by the NHS. That post was not overtly religious unless the reader clicked on the link and read the article. It appeared at page 810. Ms Tomlinson replied saying there was probably more to it and it seemed like personal will against medical advice.

Issue 2.1.1 – Plans for Office Move

54. On 23 August 2023 Mr Roberts sent to staff some PowerPoint slides showing the position in relation to the two new offices which were “front runners” for the move. There was an awareness that staff would need private break-out rooms, not just for the claimant but also for HR or managers to have confidential meetings. One of the sites had two small meeting rooms (page 107) whilst the other (Merseyway Innovation Centre) did not but had three pods shared between 25 offices in the building, plus some space in the general reception area. His e-mail said that he would welcome views on the two sites.

55. The claimant responded to say that he had done an excellent job (page 115) and did not express any preference between the two.

56. The decision was taken to choose Merseyway because it was not as dated as the other office, appeared to have better soundproofing, and was an improvement on the current premises. The open plan office in which the Corporate Support Team would be situated was going to be arranged using dividers to create a quiet corner in which the claimant would be located, although the plan on page 103 showed that the printer would also be next to her desk. This formed allegation 2.1.1 and we will return to it in our conclusions. We note here that when staff actually moved into the office it became clear that the printer should not go in the quiet corner and it was located somewhere else. The quiet corner was reconfigured and the claimant would work at desk 8 when not working in one of the pods.

57. There were further staff briefings on 6 and 12 September, and the formal consultation document about a change to the contractual place of employment was issued on 12 September 2023 (page 119).

Issue 2.1.3 Conroy Comment

58. This allegation was that on 12 September Kirsty Conroy made a comment that the new design would not work with the quiet corner. We will return to this in our conclusions.

Issue 2.1.2 Deliberate Distractions

59. This allegation was that from 7 September onwards people seemed more agitated towards the claimant and seemed to be increasingly purposeful in creating

noise and distraction around the claimant. It was directed at Mrs Bracken and Ms Tomlinson. We will return to that in our conclusions.

Issue 1.2.2 Ratcliffe Assurance

60. The perception that there were problems of this kind caused the claimant to ask to speak to Ms Ratcliffe. In a Teams message on 13 September 2023 (page 248) the claimant asked to speak about whether people had an issue with her working in a separate place where it is quiet so that she could concentrate. Her message said it seemed like people often looked for ways to interrupt her and make a noise around her, although she was “sure it’s just perception”. She wanted to know if there was an issue about that.

61. They met that day and Ms Ratcliffe assured her that there was no issue. The management note of that meeting which was later used in the probationary review appeared at page 169. It recorded Ms Ratcliffe explaining that disturbances had increased over the last week in preparation for the office move because confidential paperwork had to be shredded and the shredder was in the service centre where the claimant had been working.

62. Allegation 1.2.2 was that this was a false assurance which amounted to direct religious belief discrimination because in fact there had been issues raised. We will return to that in our conclusions.

Issue 2.1.4 Lights Out

63. On 19 September 2023 there was a discussion on the Teams channel linked to Christmas. The claimant posted as follows:

“I obviously love what Christmas celebrates, and I am so so so grateful for Jesus Christ, we would otherwise have no hope at all of an eternal life 💖. Here is a song for everyone to listen to and to get into the spirit of it as well”

64. The song to which she provided a link was Christian in nature.

65. At the end of that working day the claimant had a conversation with Mrs Bracken who was in the corridor outside the office where the claimant was working. Mrs Bracken then left and the lights in the room and the corridor were then switched off. The door had not been locked. The claimant thought this had been done deliberately as Mrs Bracken knew that she was in the building. She put a message to that effect in the Teams chat at just before 6:00pm (page 158).

66. Ms Adshead came to see the claimant the next day and apologised for switching the lights off.

67. In the course of that discussion the claimant suggested to Ms Adshead that people had been deliberately interrupting her when she was in the service centre. Ms Adshead suggested they go somewhere more private to discuss those concerns. The claimant did not provide any specific examples. Ms Adshead reassured her that she was confident no-one in the team would interrupt her on purpose. Ms Adshead was concerned by this and relayed the contents to the Head of HR, Hayley Moorhouse.

68. In our hearing the claimant alleged that this had been done deliberately by Mrs Bracken and Ms Adshead by way of harassment related to her religious belief, and we will return to that in our conclusions.

Office Move 20 September 2023

69. The move to Merseyway took place with effect from 20 September 2023. The claimant had not previously been to the offices. It turned out that there was construction work going on outside and some drilling right under the quiet corner where her desk had been situated in accordance with the plan. She also formed the view that the printer did not need to be situated next to her desk.

70. At the end of the day she told Ms Tomlinson and Mr Roberts that she was planning to work back at Kingsgate the following day because she needed to do the weekly payments and thought that there would be fewer interruptions and noise. There was also concern about the quality of the Wi-Fi connection.

Allegation 2.1.5 – Interruptions at Kingsway 21 September 2023; Bullying allegations

71. This allegation was that whilst working from Kingsgate the next day the claimant was subjected to a number of interruptions from colleagues, primarily Mrs Bracken, which amounted to harassment related to her religious belief. We will return to that in our conclusions.

72. At just after 2:00pm Ms Ratcliffe e-mailed the claimant (page 285) saying that Kingsgate could not be used after the following day so everyone would have to be back at the new office at Merseyway from Monday. She offered to talk about adjusting the working space even further to help the claimant focus.

73. Just before 4:30pm the claimant sent an e-mail to Mr Rose (pages 128-129). She provided details of the payments that had been submitted and then gave a summary of five different interruptions that day.

74. The interruptions she recorded included these:

- people looking for paper,
- a “lengthy loud conversation” between Ms Tomlinson and a colleague,
- Mrs Bracken asking the claimant to help carry some boxes and asking if she could speak to the claimant later on,
- Mrs Bracken and Ms Tomlinson talking to the claimant about the Wi-Fi at the new office.

75. After providing those details the claimant said that she was asking if there was an issue with her sitting and working on her own. She mentioned she had started doing that partly because people seemed to have an issue with the fact she was quiet and not always chatting in the office, and because she was hearing the Lord’s name taken in vain repeatedly. She said that she had asked both Ms Ratcliffe and Ms Adshead whether people had an issue with her and both of them had said not. She

mentioned that she had been hurt by the fact that the printer was going to go in the quiet corner of the new office next to her desk. She wanted to find another place to work if she was going to stay working for the respondent, and she felt as if people were trying to get rid of her. She said she had been bullied, harassed and mocked throughout her life because she was quiet.

76. Her e-mail ended by saying that she had found a site where single office spaces could be rented and offered to pay for one herself as it would be the equivalent of working from home, which other staff did regularly. She suggested that she could rent an office from the end of October as a solution for everyone.

77. The claimant then responded to Ms Ratcliffe and said that she knew from experience that sometimes people would prefer “a different personality”.

22 – 26 September 2023

78. Mr Rose responded on 22 September to the claimant’s e-mail alleging bullying and harassment. His e-mail appeared at page 130. He said that allegations of that kind would be taken seriously and reminded her of the support available to staff. He proposed a meeting on 26 September with Ms Ratcliffe present.

79. In her response (page 131) the claimant said that she was speaking to Christopher Buckley, one of the “Freedom To Speak Up” guardians. The claimant met Mr Buckley on 25 September and discussed what was happening. He e-mailed Mr Rose and Ms Ratcliffe later that day and said that the claimant had two primary areas of focus. The first was the inappropriate use of language which for her took the Lord’s name in vain, and the second was the workplace environment and perceived behaviours regarding distractions of tasks and interruptions. He said that the claimant recognised she was more introverted than her colleagues and was seeking to find a manageable solution. His e-mail said:

“She is also aware of the cultural differences within this country (from her own of South Africa) whereby language and words related to religious beliefs are much more colloquial in nature than her own which comes across as very disrespectful for her.”

80. The meeting between the claimant Mr Rose and Ms Ratcliffe on 26 September 2023 was recorded in management bullet points which appeared at page 169 and which were not shared with the claimant at the time.

81. According to those notes the claimant explained why she felt people were deliberately interrupting her quiet space, that staff were talking about her, and her concerns about the use of the Lord’s name in vain. She explained why she decided to go in the service centre. She wanted staff to be aware of her need for quiet and not to use the Lord’s name in vain. Ms Ratcliffe agreed to meet each member of the Corporate Team to feed back that sensitive information but wanted the claimant to confirm in an e-mail the exact clear message to be conveyed. The claimant was advised that there were alternative pods available in the new office which she could use for certain periods of time to allow concentration on making payments. It was discussed that the corporate Teams channel was not appropriate for discussion of activity outside work, or personal religious or political viewpoints. According to the

note the claimant agreed that the whole team would be asked to use the WhatsApp group for non-work discussions.

Issue 2.1.6 Alternative Office Space

82. Allegation 2.1.6 was that the claimant was denied a chance to try out working from offices at Piccadilly Place, which is where Mr Buckley worked. He had told her that there was office space there. It was part of the NHS but not linked to the respondent. We will return to that in our conclusions.

Issue 3.2.2 Rose Email 4 October 2023

83. On 29 September Ms Ratcliffe followed up her request for the claimant to confirm in an e-mail what she wanted staff to be told. Her e-mail appeared at page 136. The claimant responded at page 137. Her self-description in the opening points of that e-mail was quoted in paragraph 43 above. She made clear that she was happy to be involved in planned activities to hang out and connect, and she recognised the importance of teamwork. It was because it took her an effort to socialise, as she did not always know what to chat about, that she found it so distracting to chat whilst working. Other people found it easy and were able to balance it so naturally.

84. Ms Ratcliffe responded (page 139) to thank the claimant for the effort she had put into that reply and said she was always available to discuss anything if the claimant wanted. She was going to have a one-to-one meeting with each member of the Corporate Team.

85. Mr Rose issued an e-mail to the Corporate Team on 4 October at pages 337-338. Allegation 3.2.2 was that this e-mail amounted to harassment related to race. In its entirety the e-mail read as follows:

“Dear Colleague

Just a couple of things we would like to take on board:

- 1. Can you please use the Corporate Teams channel for matters directly related to work. For issues of a more social or personal matter, such as holidays, nights out, reposts from social media etc please use the Corporate Team WhatsApp.**
- 2. Viaduct champions itself as an organisation that is a great place to work and supportive of all individuals regardless of their individual preferences, backgrounds and personal views. With this in mind can we all be aware that Elaine is very religious and that some of the colloquial terms that we may consider acceptable in the UK can be offensive to her. Please bear this in mind when you are in the office.**

Many thanks.”

Corporate Team Meetings 5 and 6 October 2023

86. On 5 and 6 October 2023 Ms Ratcliffe had individual meetings with the team members. The notes kept by management appeared at page 170. These were not disclosed to the claimant.

87. Staff were unaware that they had used the Lord's name in vain and understood that it could cause offence and would apologise if they had said it directly. People expressed concern for the claimant's wellbeing as she was struggling at the time of the move. The series of disturbances on 21 September were due to the move not to any intention to impact on the claimant. After the initial move the office had been rearranged so that the printer was no longer next to the claimant's desk in the quiet area but staff were upset that the claimant was still not using the facility and appeared to have taken herself away from the team. It was acknowledged that she had made an effort to integrate by turning out at work events.

88. One person, Kirsty Conroy, said that she felt offended that she was experiencing other religious views "being forced upon her" by the claimant in Corporate Team posts which conflicted with her own beliefs. She wanted the claimant to be tolerant of others.

89. This last point was the first time that any issue had been raised about the posts.

Meeting with Claimant 10 October 2026

90. Mr Rose and Ms Ratcliffe met the claimant on 10 October. The management notes appeared at page 170. The claimant confirmed that she was happy that there had been a response to using the Lord's name in vain. She said she had been using a pod each day to help with focus and did not want to work in the office space due to the construction noise.

91. She was given feedback about the perception she was not integrating and communicating about work issues other than by e-mail. Ms Ratcliffe told the claimant that staff felt they could not approach her in case they upset her. The concern raised by Ms Conroy was not conveyed to the claimant.

92. The last two bullet points from that meeting were as follows:

- “● (Mr Rose) advised (the claimant) needs to present in the main office and start to integrate into the team to facilitate corporate support and feel part of the team.
- Advised can still use the pod or soundproof booths to complete payments or tasks that require focus.”

93. Steps were taken to monitor noise levels in the office between 11 and 13 October. The results appeared at page 143. The noise levels were not excessive. However, the claimant continued to experience problems due to noise. On 11 October (page 356-357) she e-mailed Mr Rose and Ms Ratcliffe to say that there had been a lot of noise from the construction work, including loud drilling, that it might be due to the earphones and she had bought a new set.

Allegation 2.1.7 Lord's Name in Vain 12 October 2026

94. Allegation 2.1.7 was that on 12 October Mrs Bracken subjected the claimant to harassment related to her religious belief by taking the Lord's name in vain. There was a conflict of evidence about what happened and we will return to it in our conclusions.

95. At just after 9:00 am the claimant sent an e-mail to Mr Rose and Ms Ratcliffe (page 355-356) saying how stressful it had been with the construction work, and that she had made efforts to connect with people at the coffee station. She added the following at the end of the e-mail:

“And this morning after walking into the office and greeting everyone, two people used the Lord’s name in vain and it seemed to have been on purpose, because it was straight after I walked in and greeted them.”

96. Ms Ratcliffe responded at just after 3:00pm (pages 354-355). She summarised what she understood were the main concerns and asked who the individuals were. She asked questions about the earphones and said that noise cancelling earphones would be reimbursed if the claimant purchased a pair. A workplace stress risk assessment would be done along with a well-being passport.

97. The claimant responded about half an hour later (pages 352-353). She dealt with the issue of noise from the construction work and office conversations and with earphones. She said this about the other matter:

“The two people that were in conversation and both used the term “Oh my God” were Sara [Bracken] and Emily. I don’t think Emily would have heard about the e-mail, but the timing made me feel like it was directed at me because it was straight after I walked in and greeting everyone. Apologies beforehand if I am wrong.”

Issue 1.2.2 Ratcliffe Assurance 17 October 2023

98. On 13 October Ms Adshead moved the printers in the office as a consequence of concerns raised about colleagues using the printer.

99. On Monday 16 October 2023 the claimant messaged the team at just after 9:30 am. She said:

“I just wanted to formally apologise for where I have ever been rude or disrespectful towards any of you. It has definitely not been my intention. Also I do hope none of you have ever thought that I don’t like or don’t care about you because that is not true.

It is not an excuse but just a reason that I did begin this role at a point where I was very stressed because since December 2022 onwards I have had various highly difficult situations to work through and following on from that there have been a number of things like the noise factors which you are all aware of that have made it difficult for me in terms of stress levels ...”

100. After that apology Mr Williams contacted the claimant on Teams and they had an exchange at pages 144-146. Mr Williams was very supportive towards the claimant and she described him as a “brilliant person”. He said she had no need to apologise, that it was clear she was finding it difficult with the noise in the office and understandable if she was naturally quiet. He said she should not worry about speaking about her Christian faith openly. He suggested that she might talk to Mrs Ahuchogu, whom he knew was a Christian. They discussed the noise levels in the office and the claimant said that after meeting Mr Rose and Ms Ratcliffe she knew it was important for the team to be able to see her so that she could integrate.

101. The claimant and Ms Ratcliffe met on 17 October 2023. They completed the risk assessment document at pages 377-383 and the well-being passport at pages

360-365. In the course of this meeting Ms Ratcliffe assured the claimant that no issues had been raised with her about the claimant, again not telling her what Ms Conroy had said in the one to one meeting. Allegation 1.2.2 was that this amounted to harassment related to religious belief because it was a false assurance. We will return to that in our conclusions.

102. There was also discussion of whether there should be an Occupational Health referral. According to the note of the meeting kept by Ms Ratcliffe at pages 170-171, that was declined. The claimant had never sought medical attention for the impact of noise on her well-being.

Maljkovic Incident 25 October 2023

103. On 24 October there was a Corporate catch-up meeting. The team were asked to be more considerate with the noise levels in the office.

104. The claimant e-mailed Mr Rose and Ms Ratcliffe the following morning (page 147) to thank her for what they had said. She went on to say that the noise cancelling headset had been a massive help but not fully effective, which was why she would be working in the pod still.

105. Whilst she was there she was told by Ms Maljkovic, the Assistant Centre Manager, that she was not allowed to use the pods for a full day for health and safety reasons. Ms Maljkovic later telephoned Ms Ratcliffe and told her that the claimant had responded to that in a confrontational way, being verbally aggressive and crying in a way that was out of context. She was complaining about the way the claimant behaved but also expressing concern about the claimant's wellbeing. Ms Ratcliffe rang the claimant to check on her and the claimant said it had been an overreaction on her part as an expression of frustration. The claimant was apologetic and later apologised to the reception team.

106. The following day the claimant e-mailed Mr Rose and Ms Ratcliffe at just before 11:00am (page 698). She explained why she was unable to work from home. She had joined an organisation that placed people as house sitters in an attempt to find somewhere where she could work. She mentioned that she had apologised to Ms Maljkovic.

Issues 1.2.3 and 1.2.4 Williams Posts 29 and 31 October 2023

107. Following the e-mail of 4 October from Mr Rose and Ms Ratcliffe any social posts had appeared on the team WhatsApp group chat rather than on the Teams channel.

108. On 29 October 2023 it was the birthday of a colleague, and Mr Williams posted a picture of himself participating in a Park Run dressed in a devil costume with the number "666" as a pretend race number. The claimant alleged that this amounted to direct discrimination because of religion and we will return to that in our conclusions.

109. Allegation 1.2.4 was about a further post on 31 October. It also appeared on page 832. It was a poster of Mr Williams and his wife in Halloween costumes. Mr Williams was dressed as a zombie.

110. The claimant posted a reply. It was a link to an article which she said he might enjoy. The article was called *“Evil Spirits Used to Terrorise Me. I know what Halloween is ...”*. It was the testimony of a person hosted on a Christianity website.

111. The claimant alleged that this post by Mr Williams also amounted to direct discrimination because of religion and we will return to that in our conclusions.

Issues 2.1.9 – 2.1.12 Noise Issues November 2023

112. The next four allegations of harassment related to religious belief concerned instances in early November 2023 when the claimant considered that excessive noise was being deliberately created in the office to get at her. The particulars of claim and the List of Issues identified a number of individuals involved on each occasion, but in the course of the hearing the claimant clarified that not all of them were deliberately directing it at her.

113. On **1 November** she alleged that excessive noise was created by Ms Thomason and Mrs Bracken. The claimant sent an e-mail at almost 11:30 that morning which appeared at page 383. She said she wanted to apologise if she offended anyone but she was doing the payments when there were various conversations taking place “all round and over me when I just could not ignore it and needed to say something”. She said that there were some people that were naturally very loud and had high pitches in their voice that she could hear through her headset. Her e-mail ended with the following:

“It’s so strange how there was hardly anyone sitting in the office when I first started speaking to the both of you about sitting in the pod due to the construction noises being a distraction and since I have needed to sit [in] the office again the office has been very busy – make[s] me wonder if people really love being around me.”

114. This was a reference to the fact that she had been told by Ms Maljkovic on 25 October that she could not use the pods all day and had therefore been back in the main office more than before.

115. On **2 November** the claimant alleged that Ms Tomlinson created excessive noise. It is clear that the office was noisy that day. There was a Teams chat exchange between the claimant and Mr Williams about him leaving because it was too noisy at page 148. He said that Ms Tomlinson had been talking constantly and quite loudly. Mr Williams said in his later statement for the probationary review (page 518) that he left the office at lunch time to return home because it was hard to concentrate due to conversations happening across the room, extended chats between colleagues sat next to him, and people being overly loud on Teams calls in the main office.

116. The claimant alleged that on **6 November** there was again excessive noise created by Ms Ratcliffe and Ms Adshead. Ms Adshead made a note of this which later appeared in her statement for the probationary meeting at page 159. It said that she was having a work discussion with Ms Ratcliffe when the claimant suddenly removed her headphones and abruptly said *“When can I do my payments?”*. A discussion ensued about the claimant doing payments work on days when the office might be quieter, using the pods and how to let the team know that she needed time to

concentrate. The claimant described this in her particulars of claim as “a moment of frustration”.

117. On **7 November** Ms Adshead needed to speak to Mrs Bracken and Ms McDonald about an urgent HR matter. She walked round the bank of tables to speak to them. After the discussion the claimant asked her if they could have a chat and they went to a pod in the main reception area. According to the note Ms Adshead kept (page 160) the claimant raised her feeling that the conversation had been done on purpose to interrupt her. Ms Adshead advised her that that was not the case. They had a discussion about the office environment, the claimant’s reactions to excessive noise, and how Ms Adshead had been avoiding coming into the office because of this. The claimant apologised for these matters. In that discussion the claimant used the word “bullying” and Ms Adshead said it was a strong accusation to make. She assured the claimant that nothing was being done on purpose to disrupt or bully her. After the conversation Ms Adshead called Mr Rose to tell him what had happened.

118. On 8 November there was another noise incident but during our hearing the claimant withdrew this as an allegation.

119. The office was reconfigured on 15 November (page 161). There were three banks of two or three desks which were more spread out. The space was more open.

Issue 1.2.5 Probation Extended 21 November 2023

120. At some point before 20 November Mrs Bracken spoke to Mr Rose about the claimant’s outbursts when there was what she viewed as excessive noise. On 20 November Mr Rose e-mailed the claimant to invite her to a probationary review (page 151) on 21 November 2023. The claimant had been on leave for the previous week. According to the Managing Performance Policy (page 847) this was too late:

“The meeting must be held no later than the beginning of the sixth month to allow action to be taken prior to the completion of the probationary period after 6 months. If the probationary period has expired and the final review meeting has not taken place then the employee will automatically be confirmed in post.”

121. There were no notes kept of that meeting but the confirmation of the claimant’s probationary period being extended by three months was set out in a letter of 22 November 2023 at pages 152-154. It was extended by three months to 18 February 2024.

122. The letter recorded that there had been improvements in performance with the work itself, though there were areas of concern about the conduct of the claimant when integrating with the Corporate Team and other colleagues. The claimant was set three objectives to work towards over the next three months, being relationship building, corporate support, and corporate induction. The last involved some element of collaborative working but the first and second expressly included integrating with the team. The work required included answering the landline telephone in the office which was used for queries from patients and other staff. The claimant was expected to engage with the team not just over Teams and e-mail, but in person too.

123. The letter also addressed the noise issue. It said the office had been reconfigured to maximise the use of space and to keep disruptions contained, but

discussion and chatter were an essential part of any office environment. The claimant was encouraged to engage with colleagues when appropriate and to book pods for short periods of time or a meeting room when it was not in use for other meetings or training. It acknowledged that the claimant did not currently have the ability to work from home although that might become possible in future.

124. The decision to extend the probation was said to be harassment related to religion and/or direct religious belief discrimination, and we will return to that in our conclusions.

Issue 1.2.6 Rose Comments

125. There was a dispute of fact about whether there was any mention in the meeting on 21 November 2023 of people being afraid of offending the claimant because of her religious views. If such comments were made they were said to be harassment related to religion and/or direct religious belief discrimination.

126. Mr Rose said in evidence that he had not made any such comment, and we will resolve that dispute of fact in our conclusions.

127. The claimant sent an e-mail to him within an hour of receiving his outcome letter in which she made some comments on it then ended by posing a question. She asked if this was:

“All mainly based on the fear of people offending me due to myself being strongly religious and others having different beliefs/views and religions as mentioned by you during our discussion?”

128. The probation extension letter said the position would be reviewed on 20 December. In fact, that date was brought forward because of events on 23 and 24 November.

Issue 2.1.16 Tomlinson Conversation 23 November 2023

129. Ms Tomlinson and other members of the Corporate Team had organised an open day and Macmillan coffee morning in the new office which took place in the reception area.

130. At some point the claimant spoke to Ms Tomlinson. The claimant mentioned this in an e-mail to Mr Rose at 12:16 that day (page 167) where she said that she had had a chat with Hannah *“after she stood next to me having quite a loud chat earlier on.”*

131. According to Ms Adshead’s note at page 162, however, Ms Tomlinson reported that the claimant had taken her to one side and accused her of being disruptive, doing it on purpose and of bullying her. This had arisen because Ms Tomlinson had been talking to two colleagues at the work desk next to that of the claimant.

132. Ms Tomlinson put her complaint in writing and it was reproduced in Ms Adshead’s statement at pages 162-164. She said she had been taken aback by the claimant taking issue with the discussion she had had with colleagues. The claimant told her she felt it was intentional and that it was bullying behaviour. Ms Tomlinson

reassured the claimant that she would not do anything on purpose and it was regular office activity. According to Ms Tomlinson's note, the claimant suggested that any time colleagues want to have any sort of conversation they should leave the office. She thought that as a group the behaviour and noise levels amounted to bullying and harassment. Ms Tomlinson felt that the claimant's actions had soured the atmosphere of what had been an important day for the team. She ended by saying that she found it really upsetting to be accused of being a bully and that this was affecting the morale and behaviour of the Corporate Team and other colleagues. Her note said:

"I am aware that some people have decreased their time in the office due to feeling like walking on eggshells and worrying what reactions might come from having conversations, making jokes etc. I have also felt that some members of the team act "within themselves" as they have been made to feel that their normal character/behaviour/noise levels will bring criticism and further claims of bullying and harassment. ... For an individual to continually accuse so many people of something as serious as bullying without any foundation when, as a team, we have tried so hard for so long to be so supportive and understanding, is really upsetting and frustrating."

133. A week later Ms Conroy recorded her observation of the incident in an e-mail to Ms Ratcliffe of 30 November 2023 (page 514). She said that the conversation took place within earshot of everyone and that the claimant made complaints and accusations of bullying against Ms Tomlinson and did not show her respect or consideration. Ms Conroy said she decided to work from home that afternoon because of this exchange.

134. The claimant alleged that Ms Tomlinson carried out that conversation next to the claimant's desk deliberately as harassment related to her religious belief. We will deal with that in our conclusions.

Incident 24 November 2023

135. This was an incident between the claimant and Mrs Ahuchogu. It was reported by Ms Hyde to HR in an e-mail that afternoon (pages 164-165).

136. Mrs Ahuchogu and a colleague were talking across the room. They were not from the Corporate Team and had not been made aware of the needs of the claimant around volume level. The claimant interrupted them and asked them to lower the volume. She then put her headphones back on. Mrs Ahuchogu sought to get the claimant's attention to apologise but felt the claimant was ignoring her. After a short while they did speak and Mrs Ahuchogu apologised. The claimant said it felt like people were doing it on purpose and it felt like bullying.

137. The allegation of bullying upset Mrs Ahuchogu and she felt uncomfortable staying in the office. She went to speak to her manager Ms Hyde about what had happened but said she did not want to raise any formal or informal complaint. She would be limiting her time in the office from now on to give the claimant the space she needed.

138. When this was reported to Ms Adshead she asked Mrs Bracken to do some investigations. Mrs Bracken spoke to Mrs Ahuchogu and the colleague on 27 November (page 165).

139. Mr Rose contacted the claimant when he heard of the incident. After that discussion the claimant e-mailed Mr Rose at 4:25pm (pages 448-449). She apologised for the way things had gone with Mrs Ahuchogu. She was sorry for the misunderstandings. She said that because she appreciated the current role and wanted to develop her career in the NHS she was going to work from home with her laptop on her lap whilst seated on her bed. She said she wished she had done that after the office move rather than trying to make the new office space work out.

140. Two minutes later the claimant posted on the Teams chat (page 710). She said she was “so sorry for everything” and that she was going to work from home with a laptop on her lap whilst seated on her bed.

Issue 2.1.17 Teams Meeting 28 November 2023

141. This allegation concerned a Teams meeting in which the claimant alleged that she was harassed by conduct related to her religious beliefs because the meeting was jolly, people were joking about stress, and when she tried to get the attention of Ms Conroy she was ignored. We will return to that in our conclusions.

142. The communication that the claimant was intending to work from home as described caused Mr Rose some concern and he e-mailed the claimant on 29 November (pages 462-463). He said working from home would require a Display Screen Equipment (“DSE”) assessment, and that working from home as a one-off or on the odd day was different to routinely working from home. He said he was concerned about the home working environment. He asked the claimant to sit down with Ms Ratcliffe to get the DSE forms completed.

143. The claimant replied within a few minutes (page 462). She said she would gladly go back to the office from tomorrow and hope that she did not hit any more points of feeling over-stressed.

144. Her e-mail at page 462 included her account of what had happened in the Teams meeting the previous day. She said:

“I did feel very humiliated and shamed yesterday ... with the way people were making humorous comments about stress and the way that Kirsty [Conroy] had made me feel degraded with [how] she responded when I reminded her about the e-mail that I sent to all of you that I would gladly do the online Secret Santa for you after she volunteered herself to do it. I am more than happy to hand it over to her if that would be best or work with her on it. But please can I ask for us all to treat to not be humiliated, shamed or degraded by the team, even if they don’t like me or agree with me for any reason?”

145. The claimant subsequently met Ms Ratcliffe again about the display screen equipment on 1 December (page 171). It looked possible for the claimant to work from home for a few hours a day if certain items were bought. That would enable the claimant to work from home when the office was particularly loud.

Issue 1.2.7 Formal Probationary Review Hearing

146. Following the further incidents on 23 and 24 November, a decision was taken to bring forward the probationary review. The claimant was informed of this in a Teams meeting on 30 November with Mr Rose and Ms Ratcliffe. It was confirmed in an e-mail

that Dr Mehta sent the same day at pages 511-513. The letter warned the claimant that one outcome could be dismissal. Any information the claimant wanted to submit was due by 7 December. The meeting would be on 14 December 2023.

147. The claimant alleged that the decision to invite her to the formal performance meeting without going through any form of mediation first amounted to direct discrimination because of her religious belief. We will return to that in our conclusions.

Conroy E-mail 30 November 2023

148. Unbeknownst to the claimant, Kirsty Conroy e-mailed Ms Ratcliffe on 30 November 2023 (page 514). The e-mail made it clear that the information provided in it had been requested. It said that she was providing details of her experience of the behaviour of the claimant and how it had affected her.

149. The e-mail identified three of the Teams messages from 30 August, and said that she had been worried by the e-mail of 4 October warning staff about use of colloquial terms in the office as she was worried she would offend or upset another member of the team. She said that she had complained to Ms Ratcliffe about the WhatsApp message sharing the article about evil spirits on 31 October, and said:

"I requested for [Ms Ratcliffe] to have a conversation with [the claimant] about this article and reiterate the e-mail from [senior management] on 4 October 2023 that it is not appropriate to share religious dogmatic views."

150. She then gave a brief account of having heard the claimant challenge Ms Tomlinson on 23 November about noise, and ended with these paragraphs:

"This ongoing issue that I have personally encountered and what I have heard from others has changed my behaviour when I am in the office. I am more quiet and worried that I'll upset or offend [the claimant] firstly just by talking and secondly any colloquialism or personality quirks I may express. I am feeling uncomfortable by the [claimant's] insistence that staff talking to one another is done deliberately or is bullying tactics. It feels to me that the person who is playing the victim is the one doing the oppressing.

As a result I have avoided going into the office and when I do I sit in the communal areas, avoiding the office space as I am finding it uncomfortable and oppressive.

I hope that this helps you with your task."

Issue 1.2.8 Evidence for Review Hearing

151. It is clear that management were gathering information about the claimant because Ms Adshead was also asked to put together her statement which appeared in the bundle at page 158-166. The document was undated but Ms Adshead said in oral evidence that it was compiled in December 2023.

152. The claimant was also gathering her own evidence. She asked a number of people to be a witness for her. In correspondence with Lynn Marsland, the Strategic Lead for HR who was going to be at the hearing, she made some enquiries about documents (page 174-175). In the course of that exchange the claimant said she was asking witnesses questions about what she understood to be the main points, which she described as:

- “● **Relations**
- **Supporting the team**
- **Noise issues**
- **Growth and development”**

153. The claimant provided her supporting information on 11 December. The pack was well over 300 pages long and appeared in our bundle between pages 177-510. It included a witness statement from Joseph Pickard (page 517) confirming that the claimant had been very helpful, and a statement from Mr Williams (pages 518-519) giving his account of events. He gave an account of some occasions in November when the office had been noisy and confirmed that the claimant had made an effort to get involved in social events and came across as very supportive of colleagues. The witness statement of Alistair Hodgson appeared at page 520, and confirmed that the claimant had raised issues about the noise in the main office, although he thought it had been resolved since moving to Merseyway. Finally there was a witness statement from Anita Rennison from a different team who provided a very positive account of how helpful the claimant had been in their work together.

154. The attachments to the claimant's pack of information were itemised in the index at pages 177-181. There was a host of information showing her participation in social activities and when she had supported members of the team and of other teams with various activities. It also included a number of e-mails about noise challenges to which we have referred above. She provided a chronological account of events with various e-mails and other documents embedded in that account. It was a comprehensive submission.

155. Once Ms Marsland had received the claimant's information she circulated to all participants the information from both sides. The management's supporting evidence appeared at pages 684-721. It included lots of the exchanges by e-mail and on Teams about the issues mentioned above. It included the statement of Rachel Adshead compiled in December, although not the e-mail from Ms Conroy of 30 November 2023.

156. Allegation 1.2.8 was that the claimant had been subjected to direct discrimination because of her religious beliefs by the inclusion in the information pack of the Teams channel and WhatsApp postings which included postings she made of a Christian nature. We will return to that issue in our conclusions.

157. The claimant prepared a response to the management case and sent it in by e-mail (page 527-530). She said in it that she did not mind if people use the Lord's name in vain but just did not want to sit in a space where she was constantly hearing it. She said that as an introvert she should not be compared with an extrovert, and that the previous day, having seen what Ms Tomlinson had said to Ms Adshead, she had sought to clarify with Ms Tomlinson why she had accused Ms Tomlinson of bullying her.

Issue 1.2.9 Dismissal

158. The probation review hearing on 14 December was chaired by Dr Mehta. Mr Rose and Ms Ratcliffe attended to present management's case. Mr Roberts attended to support the claimant. The notes appeared at pages 532-546.

159. There was mention of the use of the Lord's name in vain which had resulted in the e-mail of 4 October 2023. Neither management nor the claimant mentioned the claimant's Christian posts on Teams and later on WhatsApp.

160. The claimant raised that the meeting should have been held within six months of her start date in accordance with the policy. She said that if she was able to work from home she was sure that things would work out.

161. The meeting reconvened on 20 December to convey the decision. The notes of that appeared at pages 547-550. The notes recorded what Dr Mehta said about the concerns. It said that:

"There were a significant number of incidents during your probationary period where your conduct towards other staff members were concluded to be unacceptable. You have proposed that these incidents were due to environmental issues, but despite significant support and adjustments, there has been a continued occurrence of incidents."

162. It said that there had been further incidents after the probation extension letter, including the claimant approaching Hannah Tomlinson having seen what Ms Tomlinson had said in the statement of Ms Adshead.

163. The note of the outcome meeting went on to record Dr Mehta saying that the claimant had made several accusations of bullying which following investigation and clarification she had retracted. Her position was that she felt bullied but did not feel it was an accusation against any specific individual. She continued to maintain that staff were purposefully creating excessive noise with the intent of disrespecting her but without providing any evidence. There had been lots of adjustments and efforts in the new office to minimise disruption, including the DSE assessments, the stress risk assessment and the supply of a noise-cancelling headset. The panel had concluded that management took all reasonable steps to support the claimant.

164. Dr Mehta also said that the panel felt there had been an attempt to meet with the claimant before the six-month period expired but she had been on leave. There was clear evidence she had not passed her probation and therefore her employment was to be terminated.

165. This was confirmed in an outcome letter dated 22 December 2023 at pages 551-553. It referred to the failure of the claimant to meet the expected standard in terms of conduct.

Issue 1.2.11 Appeal

166. The claimant exercised her right of appeal, indicating that in an e-mail of 23 December (page 757) and providing a full appeal letter on 2 January at pages 554-558. She provided a pack of evidence which ran through to page 683. She made a

number of allegations of legal claims which were not pursued in this case, but made it clear that she thought there had been harassment and bullying of her. She did not say that she thought this was harassment or discrimination because of her religious beliefs.

167. The management's statement of case for the appeal appeared at page 724 onwards. It included a timeline of incidents at page 764. The management case said that the dismissal was for failure to meet the expected standards of professional conduct. It denied that there was any ulterior motive behind the reason for dismissal and addressed in detail the points the claimant had raised in her appeal document.

168. The appeal hearing took place on 30 January 2024. The appeal was chaired by the non-executive Director Mr Page, who was also the chair of the board of the respondent. He had extensive experience as a non-executive Director, although this was his first such appeal. The claimant attended but did not have anyone to accompany her. The notes of the appeal hearing appeared at pages 775-791. The claimant had prepared a list of her concerns which appeared at pages 924-980, and a series of questions which appeared at page 981-987. There was no allegation in those documents that her dismissal had been for religious reasons.

169. The outcome of the appeal was set out in a letter of 6 February 2024 at pages 792-795. Mr Page concluded that it was reasonable for Dr Mehta to believe that there was sufficient evidence to show the claimant had failed to meet the expected standard of conduct. The letter mentioned performance and conduct, even though the dismissal letter only referred to the latter.

After Dismissal

170. The claimant presented her claim form in these proceedings on 28 March 2024. She explained on pages 34 and 35 why she had been the victim of discrimination on religious and ethnicity grounds. She relied on what she perceived as a change in demeanour and attitude towards her following certain posts, and that the posts had been included in the management case for the probation review.

171. In April 2024 the claimant received the result of two requests she had made for access to data under the data protection legislation. This included a request for details of concerns that had been raised confidentially. It was in the documentation she received that she saw for the first time the e-mail at page 514 sent by Ms Conroy which expressed concern about the claimant and her "dogmatic religious views". That fuelled her belief that her religion had played a part in the way she had been treated.

Submissions

172. The oral evidence in this case concluded on Friday 23 January and the parties made oral submissions on the morning of Monday 26 January 2026.

Respondent's Submission

173. The overarching submission made by Ms Amartei was that the claimant had failed to prove facts from which the Tribunal could conclude that there had been any breach of the Equality Act and that therefore all the allegations should fail for this

reason. The claimant had done no more than say that actions “could have” been unlawful, “felt like” harassment, and could “possibly” be unlawful.

174. In any event, she submitted the nature of the complaints of harassment in this case meant that they could not be harassment. The claimant had put her case on the basis of an intention to harass her but there was no evidence to demonstrate any deliberate actions of that kind. Nor had the allegations in question had the effect of creating an intimidating or hostile environment at the time: it was only with hindsight, in particular having seen the Conroy e-mail of 30 November 2023, that the claimant had characterised matters in that way. It was a sad feature of this case that the respondent’s employees, particularly Mr Williams and Ms Conroy, had gone above and beyond to support the claimant. The claimant could not see that this fundamentally undermined her case.

175. Ms Amartei also relied in particular upon the comments made in **Richmond Pharmacological** and **Grant v HM Land Registry** about the importance of not cheapening the definition of harassment by applying the label to matters which are simply an unfortunate phrase.

176. Finally as a general point she submitted that the claimant was clearly very dedicated to her work, but that had led to a perception that the respondent should organise its business around her needs, including its choice of premises. The claimant was not suited to working in an open-plan office environment and failed to understand the need to balance her needs and those of the respondent. That is why innocuous acts were seen as bullying.

177. Ms Amartei then went through the allegations one by one and summarised the position of the respondent on them. We will consider any particular points made in our discussion and conclusions below. Overall she submitted there was no evidence linking these matters to the claimant’s religious belief or nationality, and that the respondent had provided a non-discriminatory reason in relation to each matter. In particular the complaints about excessive noise were difficult to understand because disruption was inevitable given the office move, and there was no basis for thinking that it was directed at her. Other people had been affected and complained about it.

Claimant’s Submission

178. The claimant began by addressing the question of time limits and invited us to conclude that there had been a continuing act of discrimination and harassment which resulted from her Christian postings which began at the end of August 2023. As to why she had not brought a claim any earlier, she was not in a position to appreciate exactly what was happening, which is a common experience for victims of bullying and harassment. She only discovered later on when she saw what was in the management case what had actually been happening.

179. She submitted that there had been an interaction between the fact she was not from the UK and her religious views which had caused colleagues to react adversely to her. She also emphasised the evidence she provided in the internal process about the degree to which it was possible to integrate with the team without physically working in the open plan office all the time.

180. The claimant then went through the individual allegations one by one. A summary is as follows.

181. In relation to allegation 1.2.1, she submitted that there were three causes for the demeanour of colleagues to change against her. They were the fact people were more busy because of the impending office move, the fact that she was working away from the open plan office in a separate office much of the time, and her religious posts. The third one had been a material influence. She thought there had been an assumption that she was homophobic because she had been responding to a post by Mr Williams about the Pride parade. They had taken that as being the reason she had moved into a separate room. Although there was no overt and direct evidence of that being the reason, she invited us to reach that conclusion from the cumulative effect of everything that had gone on.

182. In relation to allegation 2.1.1. it was now evident that Ms Conroy had taken exception to the Christian posts and she was one of the people who arranged for the printer to be in the quiet corner. Her comment in issue 2.1.3 had been designed to make the claimant feel unwanted.

183. Allegation 1.2.2 was about Ms Ratcliffe giving her false assurances no issues had been raised. It is clear that Ms Ratcliffe did know of Ms Conroy's concern about the posts from the meeting at the start of October but she still did not tell the claimant on 17 October 2023. The claimant invited us to infer that Ms Ratcliffe must have known of similar issues at the meeting on 13 September. Although Ms Conroy had raised matters through the Freedom to Speak Up process, Ms Ratcliffe could have preserved confidentiality by telling the claimant that issues had been raised without saying who had raised them.

184. The lights issue on 19 September was the same day as she posted the link to the Christian song (issue 2.1.4) and although she thought it all had been resolved it cropped up in Ms Adshead's statement for the probationary review. That is what made her look back and feel the incident had not been dealt with.

185. In relation to the e-mail of 4 October (issue 3.2.2) the claimant emphasised that it singled her out by naming her as a person and effectively made her a target. She was the problem for the team. That e-mail created a hostile environment for her. That is why it was quoted by Ms Conroy in her e-mail of 30 November 2023.

186. Issue 2.1.7 was an instance of deliberate use of the Lord's name in vain by Mrs Bracken to get back at the claimant for the religious posts. The office had not been as busy that day as Mrs Bracken had maintained in her evidence.

187. In relation to the two posts made by Mr Williams at the end of October 2023 (issues 1.2.3 and 1.2.4) the claimant said that this was direct discrimination because no-one took issue with his posts whereas people had done with hers. She relied on the e-mail from Ms Conroy of 30 November 2023.

188. More generally the claimant invited us to conclude that all the instances of excessive noise in early November were related to the response she posted to the Halloween picture by Mr Williams. There were individual variances in what happened

and its impact on her but they were all instances of people making life difficult for her in the office because of her Christianity.

189. In relation to the probationary extension (issues 1.2.5 and 2.1.14) the claimant invited us to take account of the lack of any procedure by Mr Rose. She was just invited to the meeting by e-mail but had no chance to consider the material on which his decision would be based. She compared herself with Ms Tomlinson and Mrs Bracken, who were both promoted.

190. The Teams meeting on 28 November 2023 (issue 2.1.17) was an instance where the team knew she was working at home and that she had been volunteering to get involved in the Secret Santa episode. They also knew from her earlier posting how important Christmas was to her as a Christian. This was their opportunity to get back at her. They were jollier than usual because she was not in the office and making jokes about stress because they knew she was stressed by the events in the previous week. This was all part of the harassment and humiliation of her.

191. The decision to move to a formal hearing was communicated to her on the same day as Ms Conroy sent her e-mail: 30 November. The opportunity to trial working from home for two or three hours each day had not been taken up despite the DSE meeting on 1 December. With a combination of working from home, working in the pods and spending time in the open plan office it could have been made to work as an alternative to dismissal. The dismissal itself (issue 1.2.9) was direct religious belief discrimination. All the issues which led to her dismissal had been deliberately created for her due to her Christian posts. Offence had also been taken at her issue with people taking the Lord's name in vain.

192. The same was true of the appeal decision by Mr Page. He had seen the posts in the material before him and had failed to make appropriate enquiries before deciding to reject her appeal.

Discussion and Conclusions

Introduction

193. As the claimant was employed for only seven months by the respondent there was no unfair dismissal claim in this case. That meant that the Tribunal was concerned not with issues of fairness but with the allegations that the respondent breached the Equality Act by subjecting the claimant to harassment related to her Christian beliefs and/or to her South African nationality. In addition there were some allegations of direct discrimination because of religious belief.

194. In assessing whether there had been any breach of the Equality Act the Tribunal had first to establish the facts about each allegation. In much of the case the primary facts were not in dispute. We had to make findings on a few disputed matters. We were satisfied that all the witnesses including the claimant gave evidence truthfully, even if there were occasions when their recollection of events and discussions varied between witnesses or were more detailed in cross-examination than what had been recorded at the time.

195. We then had to apply the law to the facts.

196. The direct discrimination claim was brought under Section 13 of the Equality Act. We would have to decide first if the claimant had been treated detrimentally and if so whether that amounted to less favourable treatment than a person of a different or no religious belief would have received in the same material circumstances. Where the treatment was overtly because of religion that test is not needed but in any other case the Tribunal is really deciding whether the claimant's religion had any material influence, consciously or subconsciously, on the mental processes of the person responsible for any detrimental treatment.

197. In considering that "reason why" question, as it has been called in the case law, we reminded ourselves that Section 136 provides for a shifting burden of proof. The burden was on the claimant to prove facts from which the Tribunal could conclude that there had been a contravention of Section 13. If that was done the burden would shift to the respondent to show that the reason for the treatment was in no sense whatsoever the claimant's religion. In some cases, however, a Tribunal can make a firm finding of fact about the reason which means it does not need formally to go through the two-stage analysis of the shifting burden of proof. In this case there were many allegations where that was possible.

198. In relation to the harassment complaints we applied Section 26 of the Equality Act. This has a complicated framework. The first thing we had to decide in each case was whether there was unwanted conduct. If so we then had to decide whether it was related to religious belief or nationality. That is a looser test than the "because of" test in Section 13 but there still needs to be some link between the protected characteristic and the treatment in question.

199. Then we asked whether that treatment was intended to create the proscribed environment, and if not intended, whether it nevertheless had that effect. The proscribed environment is defined in Section 26 as an intimidating, hostile, degrading, humiliating or offensive environment for the claimant. Importantly, in cases of effect rather than purpose, we had to apply Section 26(4). That required us to take into account three things: the perception of the claimant; the other circumstances of the case, and whether it is reasonable for that conduct to have that effect. The case law establishes that the bar for what amounts to harassment must not be set too low: **Richmond Pharmacological** and **Grant v HM Land Registry**.

200. Only if the claimant has shown facts which could result in a finding of harassment would the burden shift to the respondent.

The Key Issue and the Burden of Proof

201. Broadly this case turned on the question of whether the treatment of which the claimant complained was linked to her religion or nationality, or whether it had nothing to do with those protected characteristics. It was convenient to address this before descending into the detail of individual allegations, since many of them had no overt connection to religion or to nationality. The claimant relied in many instances on timing: she invited us to conclude that instances of detrimental treatment occurring the same day as a religious post, or within a few days of one, were causally linked. In contrast the respondent's case was that it was the effect of her personality on her interactions with colleagues which was the problem, not her religion or nationality. There were two background points we noted.

202. Firstly, we took into account the claimant's personality, best summarised in her own documents. In her e-mail of 21 September at page 128 she said that one of the reasons she started sitting on her own was because people seemed to have an issue with the fact that she was quiet and not always chatting in the office. She said that she had been bullied, harassed and mocked throughout her life because she was quiet. In her e-mail of 29 September at page 137 she recognised the importance of connecting and appreciating social matters but also said that she tended to listen more than speak, did not like a lot of attention or fuss, and did not naturally look for conversation. She explained that it took an effort for her to socialise so it was too distracting to chat whilst she was working.

203. Secondly, we noted that it was only after dismissal in her appeal letter at pages 554-558 that she first raised allegations of direct religious discrimination. That was based on the inclusion of some posts of a Christian nature in the management material for the probation review hearing, and because at that hearing (page 534) Ms Ratcliffe referred to the concerns which had been raised by the claimant in September 2023 (page 128) about people taking the Lord's name in vain. Although during employment she expressed concerns that treatment was targeted at her, she did not say it was due to religion.

204. Subsequently in her claim form at pages 34-36 the claimant did set out why she had formed the view that there had been harassment and direct religious discrimination. The reasons included the fact that management included two Christian posts in the information for the probation review, but also some other events which the claimant had only retrospectively characterised as related to race or religion. Those included the incident where the lights were switched out in the office on 19 September, the e-mail sent by Mr Rose and Ms Ratcliffe to staff on 4 October and the Halloween posts made by Mr Williams at the end of October 2023.

205. Importantly the claimant's suspicions were fortified when she saw the e-mail from Kirsty Conroy of 30 November 2023 at page 514. That was obtained via a data protection subject access request in April 2024. It mentioned the claimant's religious posts and said that the claimant had been sharing what Ms Conroy described as '*religious dogmatic views*'.

206. We considered whether, given the totality of the evidence before us, the claimant had shown facts from which we could reasonably conclude that the treatment of which she complained which was not overtly linked to religion was nevertheless related to or because of her Christian beliefs.

207. There was no primary evidence of any adverse reaction to the Christian posts from anyone apart from Kirsty Conroy. Indeed, Mr Williams reacted positively and supportively to the claimant and encouraged her to be herself. The claimant was asking us to infer a link between her religious beliefs and the behaviour that she considered detrimental. It was a link she herself had seen only in retrospect.

208. As for Kirsty Conroy, we considered her e-mail of 30 November 2023 at page 514, which the claimant did not see until after her employment had ended. This was an important part of the claimant's case. It was clear that Ms Conroy did object to the claimant sharing her religious views in the Teams channel and felt that the claimant's religion was being imposed upon her. She said as much in her one-to-one with Ms

Ratcliffe in early October as recorded at page 170. But it was important, in our judgment, to recognise that these were not instances of Ms Conroy proactively contacting management to make a complaint. The one-to-one meetings were arranged by Ms Ratcliffe. The e-mail of 30 November was also sent in response to a request for information about how the claimant's behaviour had affected her.

209. Further, on occasions Ms Conroy went out of her way to be friendly towards the claimant. For example, on 27 September 2023 (page 134) she gave the claimant advance warning of a new system for booking the rooms, telling the claimant before the rest of the staff were going to be informed about it. On 10 October at page 708 she was the first to respond to the claimant's message, saying she was happy to meet the claimant for coffee or lunch. In cross-examination by Ms Amartei on these points the claimant said that these messages did not disprove that Ms Conroy was harassing her. That is true: where bullying or harassment occurs it does not follow that every interaction between the perpetrator and the victim is sinister or negative in nature. However, the fact that these messages were sent when Ms Conroy had no reason to send them did make it substantially less likely, in our judgment, that she had any antipathy towards the claimant arising out of the religious posts.

210. Overall we proceeded on the basis that the burden of proof had not shifted in relation to colleagues generally because there was no evidence of any adverse reaction to the claimant's religious posts. It was mere supposition from the claimant.

211. However, the position was not quite the same for Ms Conroy because of the concerns she expressed to Ms Ratcliffe about the claimant's expressions of her religious views. In general terms we considered that on the harassment allegations against Ms Conroy personally the claimant had shown facts from which we could conclude that Ms Conroy's actions were related to the claimant's religious belief. In assessing whether the respondent had shown that section 26 had not been contravened we took into account that she had not given evidence to our hearing.

212. Against that general background finding we addressed the allegations in the List of Issues. We will deal with them in date order rather than the order in which they appear in the list.

Allegation 1.2.1

213. Allegation 1.2.1 was an allegation of direct religious discrimination. It was that because of the Christian posts of 30 August 2023, the demeanour of some colleagues towards the claimant changed. She said in paragraph 17 of her witness statement that they became less friendly, uncomfortable and annoyed.

214. However the claimant did not give us any specifics of dates or incidents. It was an assertion made for the first time in her submission for the probationary review hearing in December 2023 at page 183, and not there linked to her religion. In cross-examination the claimant said she only made that link in hindsight. She said she recalled people going quiet when she entered the main office.

215. Overall our conclusion on this was that the claimant had simply not proven that there was any change. She had a perception that there was but there was insufficient evidence of actual events to enable us to reach that conclusion. This allegation failed

on the facts.

216. Had it been proved on the facts that people did go quiet on specific occasions, we would not have found it was because of the claimant's Christianity. In paragraph 8 of her particulars of claim the claimant said that people seemed upset that she was sitting in another room. That was an entirely non-discriminatory reason why people might have issues with her. The claimant had chosen to remove herself from the main room for significant periods, preferring to work in a quiet clinic room or the service centre. The fact that people went quiet when she went into the main office could plainly be a recognition of the fact that noise in the office was the problem. In submissions the claimant said that this was only one of three factors, but there was no evidence of her religious belief being a material influence save for timing, which was not enough to shift the burden of proof.

Allegation 2.1.1

217. This was an allegation of harassment related to religious belief. It concerned the fact that the plans for the move to the new office in the weeks leading up to 20 September showed that there would be a printer in the quiet corner where the claimant was going to sit. The plan appeared at page 289 and showed the claimant's desk behind the tambours with a printer next to it. The claimant did say in her e-mail of 21 September at page 128 that she had been very hurt by the plans to site the printer by her desk in the new premises. She said the plans were done by Ms Tomlinson and Ms Conroy.

218. Once the move took place it was obvious it did not work. The claimant said in her message to Mr Williams at page 146 that she said something and the printer was moved.

219. We considered if there was evidence from which we could conclude that the decision about where the printer should go was related to the claimant's religious beliefs.

220. We did not hear from Ms Conroy but Ms Tomlinson explained in her evidence that there were two printers, and each needed their own table, so space was limited. Ms Tomlinson said that the staff barely used one printer, let alone the second, so she did not think it would be any problem. Based on Ms Tomlinson's evidence we found that the placement of the printer in the plans was not related to the claimant's religious belief, and could not reasonably be regarded as creating the proscribed environment in any event, so this allegation of harassment failed.

Allegation 2.1.2

221. Issue 2.1.2 was another allegation of harassment related to religious belief: that from 2 September people came into the office where the claimant was working more frequently, an allegation directed at Mrs Bracken and Ms Tomlinson.

222. In paragraph 18 of the particulars of claim the claimant said that people seemed more agitated and increasingly purposeful in creating noise and distraction for her.

223. We found as a fact that preparations for the office move created more noise

and distraction. The claimant raised this with Ms Ratcliffe on 13 September as recorded at page 169. Ms Ratcliffe explained in response that there was a need to go into the service centre where the claimant was working away from the main office because there was increased shredding activity ahead of the move, and the need to pack up kit and documents. It was a short term issue while the move was imminent.

224. We found as a fact that this was the reason for the increased activity. There was no basis on which we could find it was done deliberately to get at the claimant or related in any way to her religious beliefs.

Allegation 2.1.3

225. Allegation 2.1.3 was about a comment Ms Conroy was said to have made on 12 September about how the new design for the new office would not work with the quiet corner.

226. The claimant put this (page 34 of the bundle) at the end of her particulars of claim form. She said that, looking back, people did make comments that the new design was not going to work for a quiet corner.

227. In cross-examination the claimant said that because the comment caused her offence that must have been the intention behind it. We rejected that. Ms Conroy was not the only person who made that observation. We were satisfied it was a genuine observation by Ms Conroy and others which was entirely well-founded. The respondent had shown that it was not related to religion or amounted to harassment. It would not have been reasonable in any event for it to have had the proscribed effect.

Allegation 1.2.2 13 September 2023

228. This allegation had two parts. The first was that on 13 September Ms Ratcliffe told the claimant no issues had been raised and in fact they had; and that was a false assurance amounting to direct discrimination because of religious belief.

229. The note of that interaction appeared at page 169. The claimant raised a personal concern that the team had been talking about her. There was no evidence that anyone had raised that issue with Ms Ratcliffe before then. Telling the claimant the truth cannot amount to a detriment, and in any event there was no link to the claimant's religion.

230. We will return to the second part of the allegation about 17 October when we reach that point in the chronology.

Allegation 2.1.4

231. Allegation 2.1.4 concerned events on 19 September 2023. It appeared in paragraphs 19 and 20 of the particulars of claim.

232. The claimant made a post at just after 11:30 am at page 830 in which she said she loved Christmas, was so grateful for Jesus Christ and provided a link to a song which was obviously Christian in nature.

233. At the end of that day the claimant was working in the service centre. She spoke briefly to Mrs Bracken in the corridor and then found that someone put the lights out. She made a post at just before 6pm that evening at page 158 in which she explained what had happened and described it as “so funny”.

234. Ms Adshead saw that the next morning and told the claimant that she was the one who had put the lights out; she apologised for doing that. She told our hearing that she had not even been aware of the post made that morning, as she was in HR not part of the Corporate Support Team.

235. On the evidence we heard we found as a fact that it was Ms Adshead who switched the lights off without knowing that the claimant was there. The claimant speculated that Ms Adshead must have known the claimant was there but there is no evidence of direct contact between them that evening. The claimant had not known Ms Adshead was there and her focus had been on Mrs Bracken.

236. This was just a genuine mistake which the claimant misinterpreted. There was no link to religion and the allegation failed.

Allegation 2.1.5

237. Allegation 2.1.5 concerned people interrupting the claimant on 21 September. This was an allegation of harassment related to her religious belief.

238. This was the day after the office move but the claimant had chosen to work at Kingsgate, the old office, where it was much quieter. She sent an e-mail on 21 September at page 128 where she itemised the five interruptions that this allegation concerns.

239. The first was someone looking for some paper in the service room, which of course is entirely proper.

240. The second was Hannah Tomlinson and a colleague coming in but the claimant recognised that there was a legitimate reason for that.

241. The third was Mrs Bracken asking the claimant to help carry some boxes and the fourth was Mrs Bracken asking the claimant if she could interrupt her to speak to her.

242. The fifth was Mrs Bracken and Ms Tomlinson telling the claimant that the Wi-Fi at the new office was not a problem. Mrs Bracken asked if the claimant was okay. They were concerned about the health and safety implications of the claimant working on her own at the old office.

243. We accepted that this was unwanted conduct for the claimant, who wanted to get on with her work uninterrupted, but there was no evidence from which we could find it was related to religion.

244. Even if it were, there was no basis for any finding it was done deliberately to harass her.

245. Had we been considering whether it had that effect we would have taken into account the claimant's perception but also the surrounding circumstances. The office move was still in progress. The claimant had chosen to work at the old office. There were legitimate reasons for some of the interruptions. Mrs Bracken and Ms Tomlinson were concerned for the claimant and were trying to reassure her that she could work at the new office and the Wi-Fi was okay. It would not have been reasonable for this to have had the proscribed effect and the fact the claimant alleged it was deliberate harassment shows a lack of understanding on her part that it was simply not tenable for her to carry on working in the old office when the move had taken place.

Allegation 2.1.6

246. Allegation 2.1.6 was that the claimant was harassed for reasons related to her religious belief when she was not allowed to work from Piccadilly Place or rent a separate office.

247. We found that Mr Rose's decision to refuse those options had nothing to do with religion. He explained in paragraph 13 of his witness statement why the claimant could not work at Piccadilly Place, as Mr Buckley had suggested, or from office space she rented. There were issues of confidentiality, health and safety, and insurance. This was not related to religion in any way

Allegation 3.2.2

248. This related to the e-mail sent by Mr Rose on behalf of himself and Ms Ratcliffe on 4 October 2023, said to be harassment related to race.

249. The background was that on 21 September at page 128 the claimant sent an e-mail in which she said she felt as though she was being bullied and harassed and she mentioned people using the Lord's name in vain. That led to the meeting on 26 September with Mr Rose and Ms Ratcliffe. The notes at page 169 were the only record we had of that meeting. They showed the claimant raising the deliberate interruptions, noise in the office and people taking the Lord's name in vain. It was agreed that the managers would tell staff to be mindful of their language. There was no mention of the Christian posts in that meeting.

250. There were two strands of action following this discussion in September. The first was a series of one-to-ones with the staff to be conducted by Ms Ratcliffe to tell them about the claimant's position relating to noise. The second was to let the team know that they should be mindful of their language and also use the Teams channel for work matters only

251. On 29 September there was an exchange of e-mails. At page 136 Ms Ratcliffe asked the claimant to provide some information for her to use in the one-to-one meetings with the Corporate Team that would follow. The claimant responded on page 137-138 and gave a detailed account of how and why noise in the office affected her. Ms Ratcliffe responded at page 139. The one-to-ones that ensued on 5 and 6 October were recorded in an anonymous way at page 170. They covered the point about language and they also recorded that Ms Conroy said that the religious views of the claimant were being forced on her.

252. The e-mail to staff appeared at page 337-338. Mr Rose had become aware on his return from leave of the earlier posts about Christianity and other posts. The e-mail said the Teams channel should be used for work only and that social or personal matters should go on the team WhatsApp. It also said the claimant was very religious.

253. The claimant said this e-mail was harassment related to race (i.e. nationality) because it mentioned the claimant as not being from the UK.

254. We were satisfied that the e-mail was unwanted conduct in the way it was phrased. It was something the claimant had agreed should be done but the claimant felt that to single her out, as the e-mail did, was unwanted. The claimant was already feeling vulnerable, bullied and harassed and took the view that that e-mail put her further at odds with her colleagues. The e-mail could have been worded more generally without identifying the claimant as the person being offended, although it would no doubt have been obvious to people who the e-mail was talking about.

255. We were satisfied also that there was no need for the e-mail to mention that the claimant was not from the UK. The issue with the Lord's name being taken in vain was a religious issue, nothing to do with her nationality. That was awkward wording, although in fairness to Mr Rose it should be noted that it was mentioned by Mr Buckley on behalf of the claimant in his email of 25 September at page 133. But the use of that wording made plain that the email was in some way related to the claimant's nationality, and therefore to her race under Section 9.

256. We considered then whether the purpose of the e-mail was to create the proscribed environment for the claimant. We were satisfied it was not its purpose. Indeed it was just the opposite. Mr Rose and Ms Ratcliffe were trying to help the claimant by stopping people taking the Lord's name in vain in a way that upset her. They also were taking the opportunity to correct the use of Teams for non-work messages.

257. Did the e-mail therefore have the effect of creating the proscribed environment? We considered the three matters we are required to take into account by Section 26(4).

258. The first matter was the perception of the claimant. She responded to the e-mail on 10 October at page 170. She said she was happy there had been a response to the Lord's name being taken in vain. There was no record of her complaining about the e-mail or saying that it should be worded differently. The e-mail was included in her information pack for the probationary review meeting but she described it there as "a communication re. Teams etiquette." She did not say there that it was harassment and indeed did not make that allegation until her appeal documentation in January 2024 (page 556), some three months after the e-mail was sent. We noted as well that the particulars of claim did not expressly allege that this e-mail was race discrimination. We accepted that the claimant felt a little embarrassed by it although there was no challenge, protest or objection made at the time.

259. The second matter was the other circumstances of the case. The claimant had raised a concern on religious grounds about excessive use of the Lord's name. The intention behind this e-mail was benign and supportive. There was no need to include a reference to people not from the UK as the claimant's issue was religious in nature and not based on her nationality.

260. Thirdly, we found that that it was not reasonable for an email of this kind to have the proscribed effect. Despite naming the claimant and referring to her not being from the UK, it was not reasonable to regard that as harassment given the benign purpose of the e-mail and the lengths management went to trying to address the concerns raised by the claimant in her e-mail of 21 September.

261. Overall, if this email did have the proscribed effect on the claimant it was not reasonable for it to do so. This allegation failed.

Allegation 2.1.7 – Lord’s Name in Vain

262. This allegation was that on 12 October Mrs Bracken in conversation with a colleague used the phrase “Oh my God” and that this was harassment related to the claimant’s religious belief. The particulars of claim (paragraph 38) said that the phrase was used while the claimant walked past Mrs Bracken and her colleague, having greeted everyone in the office when she came in in the morning.

263. The claimant sent an e-mail that afternoon at page 352-353. She described the phrase as having been used in conversation between the two colleagues and said that the timing made her feel as if it was directed at her, but added ‘apologies if I’m wrong’. It was clear that the claimant was not sure that it had been directed at her and it was a somewhat tentative conclusion.

264. In cross-examination the claimant gave additional evidence about this. She said it was not like a conversation, and that they looked in her direction. This was a new factual detail which was not included in the e-mail she sent the same day or in the particulars of claim.

265. Mrs Bracken’s position was that she did not recall using the phrase on that occasion but accepted she would use the phrase occasionally. When she was told by Ms Ratcliffe that the claimant had raised a concern, Mrs Bracken went to apologise to the claimant.

266. Against that background we found as a fact that Mrs Bracken did say “Oh my God” in conversation with a colleague. We also found as a fact it was not directed at the claimant. We did not conclude that it was said while Mrs Bracken was looking at the claimant. That was not how the claimant put it on the day in question. We noted that at the time the claimant accepted that it may not have been directed at her and that it was simply the timing.

267. Applying the law to that finding of fact we were satisfied that there was unwanted conduct. Mrs Bracken had been made aware by the e-mail of 4 October that the claimant objected to the phrase being used. That would also have been discussed in the one-to-one meeting as recorded at page 170.

268. That conduct was also, we concluded, related to religious belief. The use of the word “God” is inherently a religious concept.

269. We were satisfied it was not done on purpose to cause the claimant humiliation or create the proscribed environment.

270. We concluded that even though not intended, it did have the proscribed effect on the claimant. She had already raised her concern about this sort of thing; staff had been asked not to speak in that way only a few days earlier.

271. Considering the factors in Section 26(4) we concluded that the claimant did perceive it as offensive and humiliating. The other circumstances, however, were that this was a conversation between colleagues in an open-plan office. There was no intent to offend and it was not directed at the claimant. We also took into account that Mrs Bracken had been asked not to use that phrase.

272. Thirdly we considered whether it was reasonable for the phrase to have the proscribed effect. We concluded it was not. It was not directed at the claimant. If it had been deliberately directed at her in the aftermath of the e-mail and the one-to-ones that might well have been capable of amounting to harassment, but here it was a passing comment between two colleagues not intended to be heard by the claimant. This allegation of harassment failed.

Allegations 1.2.3 and 1.2.4 – Posts by Mr Williams

273. The allegations about Mr Williams' posts on 29 and 31 October (page 832) were issues 1.2.3 and 1.2.4. They were both said to be direct discrimination because of religious belief.

274. The first was a post of Mr Williams taking part in a park run in a devil costume with the number 666 as a pretend race number. It was a pun on "Hayley" and "Halloween" as it was a colleague Hayley's birthday on 30 October.

275. The second post was on Halloween itself from a park run on a different occasion where he was wearing what has been described as a zombie costume.

276. Those posts were not directed at the claimant. They cannot be less favourable treatment of the claimant because of religion because the posts were for everyone in the WhatsApp group. Everyone was treated the same. The claimant's religious views were the reason she was offended by the posts, not the reason for them, and therefore the allegations of direct religious discrimination failed.

Allegation 1.2.2 part 2 – 17 October 2023

277. The second part of allegation 1.2.2 was about the assurance given by Ms Ratcliffe on 17 October that there were no issues raised. This was put as a direct discrimination because of the claimant's religious belief.

278. The claimant raised this in paragraph 43 of her particulars of claim. It related to the workplace stress risk assessment meeting on the afternoon of 17 October. The claimant said in her particulars of claim that she was concerned that there were issues with herself needing the quiet space and she referred to page 381 which is the section of the risk assessment form where the promotion of positive behaviours was assessed. It was recorded there that there is good social interaction outside work by attending social events, good onboarding process and no concerns raised.

279. No specific allegation of any false assurance was made in the particulars of

claim but the claimant maintained in our hearing that she should have been told of what is recorded on page 170 on 5 and 6 October about staff feeling the claimant was not interacting during work time. However on pages 379 and 380 the form itself recorded that there had been conflicts, and that she herself raised issues about noise, and mentioned the one to one meetings.

280. The purpose of the risk assessment was to identify risks and the actions needed to address them. We were satisfied there was no link to religion here. The reason Ms Ratcliffe did not tell the claimant of the detail of the concerns raised was unrelated to religion. The direct discrimination complaint failed.

Noise Allegations November 2023

281. We turn now to the noise issues which formed six separate allegations between 17 October and 23 November 2023. These were all put as allegations of harassment related to the claimant's religious belief. We set out above why in general terms we found that the claimant had failed to shift the burden of proof on whether these matters were related to her Christian beliefs.

282. The common theme was that the claimant alleged that these were occasions when people deliberately created excessive noise to disrupt her work because of her religious posting at the end of October in response to the Halloween posts from Mr Williams. That was not an allegation she made during employment. In her appeal letter at page 557 in January 2024 these matters were included but as part of a breach of trust and confidence, not in the section where she made allegations of discrimination or harassment. Only in the claim form did the claimant state that this was related to her religion.

283. We noted that the team had moved in late September to a smaller office which was open plan and which did not have dedicated private rooms which were available for the claimant to use. There was limited access to pods which were shared by the other businesses in that building.

284. Allegation 2.1.8 was about a discussion on 17 October between Mrs Bracken and Ms Ratcliffe. It is described by the claimant in paragraph 42 of the particulars of claim. She says they sat together at a desk facing the claimant chatting a lot quite loudly. The claimant records in the particulars of claim that there was noise from other sources there as well. That included construction work and Mr Roberts making a call on Teams. We also had the Teams chats about noise in the office which the claimant was engaged in with Mr Williams at page 144. The claimant said there that most people in the team were extroverts and their job roles required them to communicate constantly. This was a recognition that there could be a perfectly innocent explanation for the excessive noise. Ms Ratcliffe said that this was just a normal office conversation. That was our conclusion. We were satisfied unanimously there was no basis on which we could find this was related to religion or done deliberately. It was just everyday life in a busy open plan office where there was external noise as well.

285. Allegation 2.1.9 concerned 1 November 2023. The allegation was directed eventually at Mrs Bracken and Ms Tomlinson. In paragraph 57 of the particulars of claim the claimant explained that she was processing a payment and needed to concentrate but staff members were creating quite a lot of noise whilst speaking across

each other. The claimant said something to them at the time and then sent an e-mail just before 11:30am at page 383. She said in that e-mail there had been various conversations and she apologised if she'd offended anyone. She mentioned her colleague Ms McDonald but during our hearing she withdrew any allegation that Ms McDonald was doing it deliberately. It is clear that this occurred the day after the Halloween post and the claimant's post about evil spirits, but we concluded that it was just a normal day in the office. We were satisfied there was no link to religion and this allegation failed.

286. Allegation 2.1.10 was about excessive noise the following day, an allegation directed at Ms Tomlinson. The particulars of claim dealt with that date in the earlier part of page 26 but there was no mention of this incident; it was mentioned obliquely in paragraph 58. There was a Teams chat with Mr Williams that day at page 148. Mr Williams asked about the noise-cancelling headphones which the claimant had because he was finding it so noisy in the office. He mentioned Ms Tomlinson. That was the day he went home early because of the noise. Save for the fact that the claimant had made her evil spirits post two days earlier, there was no basis for saying there was any link to religion. Even if the timing alone had been enough to shift the burden of proof, we concluded that it was just a normal day in the office. We were satisfied there was no link to religion and this allegation failed.

287. Allegation 2.1.11 was about excessive noise on 6 November 2023 centred upon Ms Ratcliffe and Ms Adshead. The claimant gave her account in paragraph 61 of the particulars of claim. It was a Monday, which was a day that had been suggested the claimant might do payments work on because it was generally less busy in the office. There was, however, quite a bit of noise in the office and she said that Ms Ratcliffe and Ms Adshead were speaking to each other quite loudly. The claimant recalled that she had a moment of frustration and burst out asking when she could do her payments. Ms Adshead made a note of this which subsequently appeared in her witness statement in December 2023 at page 159. She had had a particularly difficult HR meeting. Ms Ratcliffe her line manager was just back from leave that day and she needed to discuss it with her. In cross-examination Ms Ratcliffe said it was just a day-to-day interaction on her first day back from leave. We were satisfied again that there is no basis on which we can find that this had any link to the claimant's religion or the religious postings. Even if the timing alone had been enough to shift the burden of proof, we concluded that it was just another instance of excessive noise in an open plan office. The allegation it was harassment related to religious belief failed.

288. Allegation 2.1.12 was about excessive noise on 7 November involving a number of different people. The claimant gave her account in paragraph 63 of her particulars of claim. She said the office was quite noisy. She particularly identified Mrs Bracken, Ms McDonald and Ms Adshead, although she later withdrew the allegation that Ms McDonald had done it deliberately. Ms Adshead made a note of this which was in our bundle at page 160. She said that she made a point of walking round to speak to a colleague rather than talking over the claimant over the desks. That led to a discussion which is recorded on that page. The claimant told Ms Adshead she felt bullied and harassed. Ms Adshead assured the claimant it was not being done on purpose. She called Mr Rose afterwards to make him aware of what the claimant had said. Again there is no evidence this was related to the claimant's religious belief or her religious posts in any way. Even if the timing alone had been enough to shift

the burden of proof, we concluded that it was just another instance of daily life in a busy open plan office.

289. Allegation 2.1.16 related to 23 November and centred on a loud conversation which the claimant said Ms Tomlinson was having. That was the day of the Macmillan coffee morning in the reception area. Later on the claimant was working in the office. The allegation was that Ms Tomlinson was having a very loud conversation with two colleagues at the desk facing the claimant. The claimant could hear it despite wearing the noise-cancelling headphones. She spoke to Ms Tomlinson about it. That discussion was overheard by Ms Conroy who was concerned enough to refer to it a week later in her e-mail of 30 November at page 514.

290. Ms Tomlinson was also concerned. The claimant accused her of doing it on purpose and bullying her. She approached Ms Adshead who made the note which later appeared at page 162.

291. That was the day the claimant received the letter confirming the extension of her probation and in her reply to that letter at page 167 she mentioned this incident and said that 'Miss Tomlinson was stood next to me having a chat.' She went on to be complimentary about Ms Tomlinson. There was no suggestion in that e-mail that the claimant regarded it as an incident of harassment. We found as a fact it did not create the proscribed environment for the claimant but even if it had we were satisfied there was no basis to link this to the claimant's religious belief. It was yet another incident of everyday life in a busy open plan office. It was not done on purpose to harass the claimant. The allegation failed.

292. Stepping back therefore and looking at these allegations about excessive noise we were unanimously satisfied that the incidents of what the claimant regarded as excessive noise were not directed at her or done on purpose and had no link to her religious beliefs. They arose from the unfortunate combination of the claimant's sensitivity to noise and interruptions and the unavoidable realities of life in a busy open plan office. There was no breach of the Equality Act in any of those incidents.

Allegations 1.2.5 and 1.2.6; allegations 2.1.14 and 2.1.15: Probation Extension

293. Issues 1.2.5 and 2.1.14 were about the decision to extend the probation made by Mr Rose. Issues 1.2.6 and 2.1.15 related to a comment Mr Rose was said to have made about his fear the claimant would be offended. Both matters were put as harassment related to religious belief or direct religious belief discrimination.

294. The claimant's account was set out at paragraph 69 and 70 of the particulars of claim from March 2024. She complained that the extension meeting was informal with no paperwork in advance, that there should have been earlier reviews under the policy and that under the policy it should have taken place in the first week of the sixth month of her probation, which would mean mid-October.

295. As to the alleged comment, the particulars of claim said that during the meeting Mr Rose said people had raised issues but did not give the claimant details. The claimant asked him what if she thought the extension was not necessary and he is alleged to have said that it was because of his fear of people offending her by what is posted in group chats due to the claimant being strongly religious.

296. But at the time the claimant put it slightly differently. On 23 November at pages 155 to 156 she responded to the extension letter and at the very end of that e-mail asked a question about whether it was all mainly based on fear of people offending her due to herself being strongly religious and others having different beliefs, views or religions. The email made no mention of the posts themselves.

297. There were no notes of this meeting kept and Mr Rose denied having made any comment of that kind. Even so we were satisfied on the balance of probabilities he did make such comment because otherwise the claimant would not have put it in her e-mail. However, we concluded that the comment made was as per the e-mail, not as she later alleged in her particulars of claim. The email was a better indicator as it was sent so soon after the meeting. Our finding of fact was that he said that colleagues had a fear of offending her due to her being strongly religious and others having different beliefs, views or religions. That was because of the objections the claimant had raised to the Lord's name being taken in vain, which of course had been the reason that Mr Rose sent his e-mail on 4 October. We found as a fact he did not refer to any religious posts.

298. As for the reasons for the extension, they were set out in the letter at pages 152-154. The objectives required of the claimant if she was going to complete her probation satisfactorily were explained. They included relationship building, which involves integration, corporate support, answering the landline in the office and helping colleagues with printing and scanning. The letter went on to say at page 157 that the office had been reconfigured, that discussion and chatter were an essential part of the office environment, that the claimant was encouraged to engage with her colleagues, that she could book the pods for short periods, or a meeting room, and that she could in principle work from home, although Mr Rose recognised that was not currently possible. But the clear message for the claimant from that letter, and the reason for the extension, was that she should be in the office and interact with her team more, though not all the time.

299. Applying the law to those findings of fact we considered first the decision to extend. We were satisfied that it was something the claimant did not want.

300. The reason was overwhelmingly because of interactions between the claimant and her colleagues relating to noise which caused her to separate herself from her colleagues. If it was related to her religious belief that was a minor consideration, restricted to her reaction to the Lord's name being taken in vain, which is why it did not feature in the letter.

301. There was no intent to create the proscribed environment. The extension was intended to give the claimant more time to create sustainable working relationships with her colleagues, instead of having her employment end.

302. As to whether it had the proscribed effect, it would not be reasonable for it to have done so given the occasions on which the claimant had been upset and disrupted by noise in the office, resulting in her perception and allegations that she was being bullied. She cannot have thought that everything was going well. It followed that the decision to extend her probation was not harassment related to religious belief.

303. Similarly it was not direct religious discrimination. Despite the comment about

the fears the claimant would be offended, the position would, we concluded, have been exactly the same for an employee in their probationary period with no religious belief who had interacted in that way with colleagues due to noise issues. The direct discrimination complaint about the extension failed as well.

304. As for the comment, we decided it was not at the time unwanted conduct. When the claimant mentioned it in her e-mail she did not object to the comment. Knowing how people felt would help her form the required working relationships. She was asking a question about it as though it was the reason for the extension. Had it been unwanted conduct we would have found it was not reasonable for it to have had the proscribed effect. It was a passing comment which reflected a genuine concern on Mr Rose's part about what he rightly saw as a potential barrier to the claimant successfully completing her probation.

305. As for direct discrimination, the comment could not reasonably be seen as a detriment. It was said in the hope the probationary period would be successfully completed. The comment did not contravene the Equality Act 2010.

Allegation 2.1.17 Teams Meeting 28 November 2023

306. Events in the Teams meeting on 28 November were said to be harassment related to the claimant's religious belief. The claimant was working from home that day sitting on her bed at home with the laptop on her knee.

307. The claimant set out her case on this in paragraph 79 of the particulars of claim. She said there were jokes made about stress relating to the Secret Santa planned for Christmas. Ms Conroy said she would organise the Secret Santa but the claimant felt humiliated as it took a few attempts for her to get Ms Conroy's attention to remind her the claimant had already offered to do it with Ms Conroy.

308. The respondent's witnesses say that this was simply a light-hearted discussion about the stress of having to spend no more than £5 on a present for a colleague as part of the Secret Santa arrangement.

309. Our conclusion was that the jolliness of which the claimant complains simply reflected that this was a light-hearted discussion about the plans for Christmas in the office. It was not directed at the claimant and the fact she perceived that it was reflected her state of mind at the time.

310. Further, the difficulty in attracting the attention of one person in a Teams meeting with many people attending is nothing to be surprised at and a common experience. The claimant accepted this point when it was put to her in cross-examination. Although this allegation was directed at Ms Conroy, who sent her email about the claimant two days later, we concluded this was not related to religion in any way. Nor would it have been reasonable for it to have had the proscribed effect.

311. Overall we were satisfied that nothing in this meeting was related to the religious belief of the claimant or directed at her in any way; the allegation of harassment failed.

Allegation 1.27 Arranging Probation Review

312. Allegation 1.2.7 was about the decision to proceed to a formal probation review hearing without first exploring mediation. It was said to be direct discrimination because of the claimant's religious belief. The allegation appeared in paragraph 83 of the particulars of claim.

313. The policy at page 848 did not expressly refer to mediation and we were satisfied that the reason the management did not consider mediation was because the real issue was noise in the office and the claimant's reaction to it. It was not just a question of personal relationships between colleagues. We found as a fact that the reason Mr Rose brought the probation review meeting forward was the incidents on 23 and 24 November 2023 which resulted from the claimant taking issue with people she considered were making excessive noise. It was clear to Mr Rose that the planned improvement in relationships mentioned in the extension letter was not going to materialise. We were satisfied that there was no link between the claimant's religion and the decision to bring forward this meeting. This allegation failed.

Allegation 1.2.8 Management case for Probationary Review

314. Allegation 1.2.8 concerned the inclusion in the management case of the two posts made by the claimant on 1 September and 19 September. The first post concerned a patient and NHS treatment and was not overtly religious in nature. The second was overtly Christian and was a link to a Christian song. The claimant dealt with these at the end of the particulars of claim in the second part of paragraph 104.

315. We considered carefully the way in which the management case was compiled, looking at the index at page 684 and the Teams messages which were included from page 705 onwards.

- The posts of 1 September about the critically-ill teenage patient were the first items included and the link to the Christmas song was the third.
- In between them was a post about psychological safety which was nothing to do with religion.
- It was followed by the posts of 19 September about the lights being put out, 20 September posts about noises and drilling, further posts about noise on 22 September, and the claimant's invitation to the team on 10 October (at page 708) to go for coffee or lunch with her and to play table tennis.
- There followed the claimant's apology on 16 October and another post about noise from signage work on 8 November at page 709.
- The last two posts on page 710 were about the claimant working from home and then a 29 November post about her being back in the office.

316. Our conclusion from that analysis was that management simply included all the Teams posts which showed the claimant's interactions with her colleagues, whether positive or negative. A number of those posts were positive in nature or received positively by colleagues. We were satisfied there was no intention to highlight the

religious posts; they were simply included as part of the general picture. So even if including the two religious posts was detrimental to the claimant, there was no basis to conclude that the religious nature of those posts had any material influence on the decision to include them. They were simply there as part of an overall picture of the claimant's interaction with colleagues. It follows that there was no less favourable treatment of the claimant because of her religion; the allegation of direct discrimination failed.

Allegation 1.2.10 Alternative Work Spaces

317. Allegation 1.2.10 overlapped with issue 2.1.6 (see above); it concerned the refusal to allow the claimant to try working from Piccadilly Place, from office space which she rented, or from home, rather than dismissing her.

318. In relation to Piccadilly Place and a rented office space there were concerns about confidentiality, health and safety and other matters which had nothing to do with religion and we were satisfied that the decision not to try those matters did not contravene the Equality Act.

319. With working from home, although some progress had been made on 1 December in the display screen equipment discussion, in that it was agreed the claimant could work from home for some periods with purchase of some equipment, the reality was that it was still not a proper facility for the claimant given that she had to work sitting on her bed with the laptop on her knee.

320. In any event we were satisfied that there was no link to religion in the refusal to try that on an ongoing basis. The overall point was that to complete her probation successfully the claimant needed to work in the office, not find ways in which to avoid doing so.

Allegation 1.2.9: Dismissal

321. We concluded this decision was based on issues arising out of the claimant's interaction with colleagues over noise issues. We were satisfied that Dr Mehta would have taken exactly the same decision for a non-religious person with the same sensitivity to noise and the same personality as the claimant which made social interaction whilst working unwelcome for her. It was not influenced in any way by the fact the claimant is a Christian, or by her religious posts, or by her issue with the Lord's name being taken in vain.

322. That was evident from the dismissal letter at page 551 which referred back to the notes of the outcome meeting at page 547. The concerns which led Dr Mehta to decide to terminate employment were enumerated at page 548 and they included the incidents where the claimant and her colleagues had fallen out about noise, the fact the claimant was making accusations that she felt bullied but was saying that no specific person had been bullying her. He referred to the support and adjustments which had been made. We decided that the decision to dismiss the claimant did not amount to direct discrimination because of her religious belief. There was no causal link.

Allegation 1.2.11 Appeal

323. The rejection of the appeal by Mr Page was said to be direct religious belief discrimination.

324. We concluded that Mr Page's reasons for rejecting the appeal were not influenced in any way by the claimant's religion. The outcome letter at page 792 explained the position. His role was to review the reasonableness of the decision to dismiss the claimant. He concluded that at the dismissal stage there was evidence of inappropriate behaviour and conduct. He found that there was no evidence to suggest discrimination and that the support provided to the claimant had been satisfactory.

325. We concluded that the decision of Mr Page would have been exactly the same if a person without any religious belief had the same record of issues over noise, interactions with colleagues and making allegations about being bullied and harassed. This final allegation of direct religious discrimination failed as well.

Closing observations

326. Overall it is unfortunate the probation did not work. The claimant was clearly an able person and very dedicated to her work. She also made considerable efforts to integrate with her colleagues outside of work and participate in organised social events. But the fact that the probation did not work was in our judgment a consequence of the claimant's interaction with colleagues which resulted from the combination of her sensitivity to noise and disruption and the realities of operating in a busy, open plan office. We were satisfied unanimously there was no link between the claimant's religion or nationality and this sequence of events. The only person who expressed a concern about the religious posts made by the claimant was Ms Conroy, but for the reasons explained we concluded that did not affect her behaviour towards the claimant, the behaviour of others towards the claimant, or management's decision that the probationary employment should be terminated.

327. For those reasons we concluded that all the claims failed and were dismissed.

Approved by:

Regional Employment Judge Franey

2 March 2026

WRITTEN REASONS
SENT TO THE PARTIES ON

18 March 2026

FOR THE TRIBUNAL OFFICE

Notes

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

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