



EMPLOYMENT TRIBUNALS

Claimant

Mrs K Henry

v

Respondent

OCS Group UK Limited

Heard at: Norwich

On: 21, 22, 23 and 24 April 2026

Before: Employment Judge: Mr. A Spencer
Ms. S. Blunden (non-legal member)
Mr. B. McSweeney (non-legal member)

Appearances:

For the Claimant: Ms. N. Henry (lay representative / claimant's daughter)

For the Respondent: Mr. A. Sendall (counsel)

JUDGMENT having been sent to the parties on 3 June 2026 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunals Rules of Procedure, the following reasons are provided:

REASONS

Introduction/Preliminary Issues

1. These reasons relate to the issues concerning liability only.
2. The respondent is a facilities services business. The claimant was employed by the respondent as a Turnaround Cleaner from 1 December 2009 and remains employed by the respondent. Early conciliation started on 12 March 2024 and ended on 23 April 2024. The claim form was presented on 6 May 2024.
3. The claimant raises complaints of:
 - (a) Victimisation;
 - (b) Harassment related to sex; and
 - (c) Direct race discrimination
4. Further complaints of direct sex discrimination and harassment related to age were dismissed upon withdrawal on 10 January 2025.
5. The issues for the tribunal to determine at this final hearing are set out in the

case summary produced after a preliminary hearing on 8 January 2025. The Judge also made case management orders to set out the steps that both parties must take to prepare the case for this final hearing.

Preliminary issues

6. The claimant raised a preliminary issue at the outset of the hearing. She complained that the respondent had been late complying with many of the case management orders. She also said that there were some documents that she did not think the respondent had disclosed. However, she merely wished the tribunal to be made aware of this. She did not assert that this had caused any particular prejudice. No application to postpone, to strike out or to make any further orders for disclosure were made. The claimant agreed that the hearing should begin.
7. We raised a preliminary issue with the claimant at the outset of the hearing. Both parties had been ordered to produce witness statements to set out the evidence they were to give at the hearing. The main statement relied on by the claimant was produced in early 2024 in connection with an internal disciplinary investigation. She had not produced a statement that addressed the issues in her tribunal claim. Further, her statement omitted evidence in relation to remedy altogether. These were significant failures to comply with the tribunal's orders. The claimant produced a further witness statement (with some further documents). This was prepared during the morning of day one of the hearing after the tribunal adjourned to read the documents and before hearing evidence. The respondent agreed that the claimant could rely on this further statement and documents. The claimant gave evidence by reference to both statements.

Witnesses

8. For the claimant, we heard evidence from the claimant herself. She also relied on written statements from the following witnesses (all work colleagues):
 - (a) Mo Patel;
 - (b) Florence Happi;
 - (c) Przemyslaw Domzol (known as "Shamock").
9. The statements for the first two of the claimant's witnesses were given to the respondent as part of a disciplinary investigation in January 2024. They were not statements prepared for the purpose of the claimant's tribunal claim. The claimant's witnesses did not attend the hearing to give evidence. We were asked to take their written evidence into account.
10. For the respondent we heard evidence from:
 - (a) Daniel Mallender (Supervisor and grievance investigator);
 - (b) Jorge Argote (Euston Site Manager and investigation manager);
 - (c) Shane Farrell (Account Director and disciplinary chair)
11. The witnesses who gave evidence before us did so under oath or affirmation. They confirmed the truth of their written statements. We had the benefit of seeing their evidence tested under cross examination and the opportunity to

put questions to them ourselves.

Documentary evidence/submissions

12. We considered the contents of a hearing bundle and written statements from each witness. We were also provided with a cast list, chronology and reading list.
13. We heard oral closing submissions from the claimant's daughter and the respondent's counsel. The respondent's counsel provided written closing submissions.

Findings of fact

14. There is much detail in the documents in this case. There are many issues which are important to the parties. However, our task is not to make findings about all such issues. We restrict our findings of fact to those required to determine the issues identified in the list of issues.
15. We reminded ourselves that the applicable standard of proof is the so-called "balance of probabilities." In other words, if the parties dispute a fact, we must consider which account of events is more likely to be correct. We do not need to be satisfied that something is 100% correct. We merely need to be satisfied that something is more likely than not to be the case.
16. The respondent is a facilities services business. It is a large organisation and part of a larger group. It can draw on substantial resources in terms of administrative, legal and HR support.
17. The claimant commenced employment on 1 December 2009 with a company named Carlisle Cleaning. She entered into a written contract of employment with Carlisle Cleaning in November 2009. She transferred employment to the respondent in January 2020 under a so called "TUPE transfer" and remained employed on the same terms and conditions.
18. The claimant's role as a turnaround cleaner involved cleaning trains. She worked at Euston station. Her supervisor was Marcus Lee.
19. The respondent has several relevant policies and procedures:
 - (a) Anti-bullying and harassment policy;
 - (b) Equality and Diversity Policy;
 - (c) Grievance procedure;
 - (d) Disciplinary Policy.
20. The claimant had made a number of complaints and grievances. The hearing bundle included documents referring to several previous complaints or grievances made between 2019 and 2022. None of these were addressed or explained in the witness evidence.
21. The claimant had a clean disciplinary record and was considered by Mr Argote to be a good worker.

22. The claimant had a poor relationship with her supervisor Marcus Lee. She plainly disliked him. This came across clearly in cross examination of the claimant. She considered his behaviour was extremely poor and perceived him as being “untouchable” in the sense that despite his bad behaviour the respondent took no action against him as far as she was aware. We did not hear evidence from Mr Lee. However, the contemporaneous documents show that the feeling was mutual. He perceived the claimant as a troublemaker and a bully.
23. The claimant was involved in an incident with Mr. Lee in March 2023. During a conversation in the office Mr. Lee became angry and talked about a work colleague named Mariana. He referred to Mariana in the claimant’s presence as a “*fucking bitch*” who did not do her job. The claimant understandably took offence at this. She raised the issue with Mr. Lee immediately by saying that he should not talk about Mariana like that and said “*I am a woman*” and it was not right for him to speak that way. Mr. Lee immediately apologised to the claimant. Later the same day Mariana told the claimant that Mr. Lee had thrown away Mariana’s food and drink. The claimant made a written complaint to the respondent on about 19 March 2023 concerning both incidents. In her concluding paragraph she stated “*If you don’t mind my saying that I strongly believe that we as woman [sic] needs to be respected by those men who think it is right to disrespect us. He felt it was right to say that to me. Well what do you think he will do to you. It is just a matter of time*”.
24. The claimant’s grievance is the protected act she relies on for the purposes of her victimisation complaint.
25. The respondent’s HR team wrote to the claimant to invite her to attend a formal grievance meeting on 12 April 2023. Daniel Mallender conducted the meeting. The claimant was given the right to be accompanied by a work colleague or trade union representative. The claimant attended the grievance meeting. She was accompanied by her trade union representative. The respondent’s notes of the meeting are unchallenged and are an accurate record of the meeting. The claimant was given the opportunity to give a full account of the circumstances giving rise to her grievance. She did so. Her main motivation for raising the grievance was because she objected to the way Marcus Lee was treating Mariana. However, it was clear that, in part, the claimant’s motivation was because she considered that Marcus Lee frequently swore in front of the claimant and other work colleagues and did not show respect for them. The claimant felt offended by Mr Lee’s comments. She is a woman and the abusive term used by Mr Lee was a gendered term of abuse. The claimant’s closing comment at the meeting demonstrated that she objected to the way Mr. Lee spoke to her and others. Referring to Mr Lee, she said “*He swears in front of us because he doesn’t respect us. When he is in the office he has to show a level of respect and set standards. But he doesn’t.*”
26. Daniel Mallender wrote to the claimant on 25 September 2023 to confirm the outcome of the claimant’s grievance. This was more than six months after the grievance was raised. He addressed this delay in his letter stating:

“As you are aware, this has been delayed due to absence of individuals crucial to the investigation of this grievance”

27. The outcome letter contains no finding on Mr Mallender's part as to whether the offensive comments and actions of Marcus Lee actually took place. Nor did he state whether the claimant's grievance had been upheld. Mr Mallender confirmed that the outcome was:

"Since the grievance hearing, I can confirm that appropriate conversations have been held with both parties and the matter has been resolved internally. That said, please do be assured that the expectations of colleagues language towards each other, and in general, has been reaffirmed."

28. The claimant was given the right to appeal against the decision. She did not do so.
29. There was a delay of about six months between the claimant raising the grievance and the grievance outcome. This was a wholly unacceptable delay for what was a simple grievance about two specific incidents. The respondent's evidence about the reasons for delay was somewhat opaque. Mr Mallender said in evidence that he understood that the grievance process took some time to complete as Mr. Lee was absent from work "for a considerable period of time" and did not cooperate with HR during that absence. We accept that this is correct to some extent but there was a distinct lack of detail about this. Mr Mallender confirmed in evidence that he had interviewed the claimant, Mariana and another potential witness within a few weeks of the grievance being raised. He then left the matter in the hands of the respondent's HR team. Mr Argote interviewed Mr Lee as early as 19 May 2023. He too then referred the matter to HR. There was a distinct lack of evidence to explain why it had then taken another four months for HR to come back to Mr Mallender to prepare the outcome letter. Furthermore, the respondent failed to update the claimant about the delay. She had to chase it herself.
30. The grievance outcome was also poor. The outcome letter did not confirm whether the claimant's grievance was upheld and did not confirm whether Mr Mallender had accepted that the events complained of actually took place. Mr Mallender and the respondent approached the matter as if the claimant were raising a grievance on behalf of Mariana. This was correct in part but it ignored the fact that the claimant was raising a grievance on her own behalf. Furthermore, the outcome did not accord with the respondent's Anti Bullying and Harassment Policy which suggested that the respondent would take a strict approach to such conduct in the workplace.
31. Overall, the handling of the claimant's grievance was poor. There was inordinate delay and a failure to update the claimant or to explain the delay. The outcome was also poorly handled and sent the message that the respondent didn't treat its own policy on harassment and bullying seriously. We can see why the claimant was left with the perception that Mr. Lee was untouchable.
32. The issues between the claimant and Mr. Lee continued. Mr Argote was able to resolve these issues informally. They included issues about rosters, actions during shifts and overtime.
33. There was a serious altercation between the claimant and Marcus Lee at the

respondent's Euston site on Friday 5 January 2024. The claimant called the police to attend. No further action was taken by the police as they considered it to be a civil dispute rather than a criminal matter. Their records include the entry "*This appears to be a dispute between staff with a historic context*".

34. Both the claimant and Mr. Lee were suspended in the immediate aftermath of the incident. The claimant was suspended later the same day on Friday 5 January. Mr Lee was suspended three days later on Monday 8 January after the weekend.
35. The decision to suspend the claimant was taken quickly. Marcus Lee reported to the respondent's management that he had told the claimant to leave site after the incident and she had not done so. He had called the security team at Network Rail to escort her from the site. There was a call between Marcus Lee and the respondent management where he gave his side of the story. This resulted in the decision to suspend the claimant. It is likely that the respondent made the decision to suspend the claimant based on Mr Lee's account alone which painted the claimant in a bad light.
36. Mr Rothwell telephoned the claimant on 5 January to inform her of her suspension. The claimant complains that this was done by telephone and not face to face. Mr Rothwell was right to deal with this by phone. The claimant wasn't on site at the time. The respondent didn't have email address for the claimant (who said in cross-examination that she "*didn't do things online*"). That was the reason for doing it verbally. It was appropriate to notify the claimant by telephone and then follow it up with a letter. This approach ensured that the claimant was made aware of the suspension as soon as possible.
37. A contemporaneous e-mail from Sam Rothwell to the respondent's employee relations team on 8 January 2024 shows that by this stage Mr Rothwell had received further information. He had received a witness statement from an individual at the site together with a statement from the claimant. He clearly saw that these statements painted a picture whereby Mr Lee may have been the main offender. He asked the respondent's HR team for advice as to whether Mr. Lee should also be suspended. A prompt decision was made and Mr Rothwell notified Mr Lee verbally on 8 January that he was also suspended. This appears likely to have been done face to face as Mr Lee was at work at the time.
38. Formal letters were sent to both the claimant and Mr. Lee to confirm their suspension. The letter was sent to the claimant on 9 January 2024 to confirm her suspension from work pending a disciplinary investigation.
39. The respondent instigated a disciplinary investigation into the incident to gain a full picture of what had happened. It was entirely appropriate for the respondent to be investigating what appeared to be serious incident. It was also appropriate to warn the claimant that the investigation may result in disciplinary action. That accorded with good HR practice. Steps taken were to interview the claimant, Mr. Lee and the potential witnesses to the incident. The respondent kept a written record of each meeting. The accuracy of these notes is unchallenged.

40. By letter dated 10 January 2024, the claimant was invited to a formal investigation meeting on 15 January to be conducted by Debbie Hesketh (Area Manager). In the letter, the claimant was informed that *"you are not entitled to be accompanied at this meeting"*.
41. The claimant sent a message to the respondent on 12 January 2024. She said she did not feel comfortable attending the meeting without her union representative present. She asked for the meeting to be postponed so that her representative could attend.
42. Mr Argote sought advice from the respondent's HR team and as to whether to delay the investigation meeting to enable the claimant's union representative to attend. The respondent agreed to allow the claimant's union representative to attend the meeting.
43. The investigation meeting was rescheduled to 19 January 2024. The claimant was permitted to attend with her union representative.
44. The respondent's note of the meeting is unchallenged. The claimant was too upset to speak about the incident on 5 January 2024. She gave her account of events by providing two written statements about the incident. These included a list of potential witnesses to the incident.
45. Debbie Hesketh interviewed several witnesses (including those named by the claimant) in late January 2024. In summary, the evidence produced showed that:
 - (a) The claimant's account was that, after leaving the office, she was followed by Mr Lee, who shouted aggressively, swore about her and her husband, gesticulated with clenched fists, appeared out of control, and had to be physically restrained by colleagues. She said she was shaken, called the police, and later received a telephone call from the general manager, who told her she had done nothing wrong but suspended her;
 - (b) Most witnesses did not see what occurred inside the office between the claimant and Mr Lee. However, several described Mr Lee emerging from the office after the claimant, shouting loudly, swearing, and appearing extremely angry. Multiple witnesses said he had to be restrained by other staff and expressed concern that the situation could have become more serious without intervention. The witnesses generally said that claimant had said little or nothing in response to Mr. Lee and appeared upset;
 - (c) Some evidence referred to earlier tensions between the claimant and Mr Lee. One witness described an earlier altercation that day in which the claimant had been shouting at Mr Lee and writing out a complaint. Two witnesses described the incident as involving mutual shouting, including one who said both parties were screaming, that he had to physically separate them, and that the claimant attempted to re-engage. Another witness characterised the claimant as persistently pressing for approval of her annual leave and described both parties shouting, with Mr Lee losing control;

- (d) Overall, the evidence suggests a heated dispute which escalated significantly. The majority of witnesses referred to Mr Lee's anger, loss of control and the need for him to be restrained. There was conflicting evidence as to whether the claimant contributed to the escalation and whether the confrontation involved mutual shouting.
46. Based on this evidence, the Respondent decided to pursue disciplinary action against both the claimant and Mr. Lee. The claimant asserts that the disciplinary charges were trumped up and brought against her in bad faith. We do not accept this. There is no evidence of this. The potential disciplinary case against the claimant as disclosed by the available evidence was not particularly strong. It suggested that Mr. Lee was the main offender. However, some of the witnesses referred to the claimant disobeying Mr Lee's instruction, provoking him and shouting at him. The disciplinary charges against the claimant were plainly not trumped up. The respondent made a legitimate decision to pursue disciplinary action against the claimant. The decision was largely driven by the respondent's HR team who had no reason to take action in bad faith. Some employers may have taken a different view given that the evidence against the claimant was not particularly strong and suggested that Mr Lee was far more culpable. However, there was sufficient evidence to justify initiating a disciplinary procedure against the claimant.
47. Shane Farrell was appointed to conduct the disciplinary hearing. She wrote to the claimant on 1 February 2024 to notify her of the process. The claimant was requested to attend a formal disciplinary hearing on 6 February 2024. The allegations were confirmed in the letter as follows:
- *unprofessional breach in conduct;*
 - *failure to follow chain of command and respect managerial decisions/directions;*
 - *unacceptable attitude towards management;*
 - *actions potentially bringing the company into serious disrepute.*
48. This was said to have the potential to be gross misconduct. Again the respondent's handling of this step was poor. It was a somewhat scattergun approach using generic and vaguely worded allegations. Arguably, the first three allegations relate to the same thing. What is most concerning is that there was no explanation in the letter as to precisely what the claimant had allegedly done to support these charges. The allegations were expressed in generic terms only without actually saying what it was that the claimant had done wrong. The letter was accompanied by the statements from the various witnesses including the claimant's statement. The reader would be left to read the witness statements and try and establish what specific incidents were said to give rise to the disciplinary allegations. This was not a fair way to proceed.
49. Furthermore, the witness statement from Marcus Lee himself was inadvertently not provided to the claimant. This is a fundamental failing on the part of the respondent. His was perhaps the most important statement as it was the one that was most likely to incriminate the claimant. The evidence from the respondent's witnesses that was that the respondent's HR team prepared the letters. It was clear from the oral evidence before us that although the letters went out in the name of individual managers, those

managers paid little attention to the content and did not take ownership of the content.

50. In the invitation letter, the claimant was invited to provide any evidence that she wished to rely on at the disciplinary hearing or to identify any further relevant evidence that should be obtained. She was referred to the disciplinary policy. Her right to be accompanied by a colleague or trade union representative was confirmed.
51. The claimant attended the disciplinary meeting on 6 February 2024 with her union representative. The respondent's note of the meeting is accurate and unchallenged. Shane Farrell conducted the meeting which ran from 12:10 to 13:40 (including adjournments). At the outset of the meeting the fact that some of the witness statements were unsigned was identified. The omission of Mr Lee's witness statement was also identified and a copy was provided to the claimant and her union representative. The meeting was adjourned to give the claimant and her union representative a chance to read the further documents. The claimant confirmed that she was happy to proceed after this. The allegations were put to the claimant in the same generic way as they were expressed in the invitation letter. Again, no explanation was given as to exactly what the claimant was alleged to have done wrong. The claimant was given a full opportunity to give her account of events. The only specific allegation of misconduct put to her was that she was argumentative. She was given the opportunity to add anything before the meeting concluded. She did not say that the charges were trumped up or in any way related to her race or because she had raised the grievance in March 2023.
52. Shane Farrell wrote to the claimant on 27 February 2024. She confirmed that the first three disciplinary allegations were not proven. She had in fact concluded that the fourth allegation about bringing the company into disrepute was also not proven. There was however a very unfortunate typographical error in the letter in which Shane Farrell stated "*having reviewed the evidence at hand I do feel it is sufficient to demonstrate your individual actions brought the company into disrepute*". The word "not" was missing from this. The respondent's HR team drafted this letter. It was plainly not checked properly either by the HR team or by Miss Farrell. The letter did however conclude by saying that no further action would be taken against the claimant, her suspension would be lifted and she should return to work.
53. Quite understandably, the claimant took issue with the finding that she had brought the company into disrepute. She submitted an appeal letter dated 29 February 2024. It was not until two weeks later on 13 March 2024 that Shane Farrell wrote to the claimant to explain the typographical error and provided a corrected version of the outcome letter. This confirmed that she had concluded that the claimant had not brought the company into disrepute.
54. We understand that the claimant remains in the respondent's employment and is currently absent from work due to ill health.

Conclusions and applicable law

55. Taking each claim and issue in turn, we set out our conclusions, dealing with the issue of time limits last.

Direct race discrimination (Equality Act 2010 section 13)

56. The claimant describes herself as black. She compares herself with people who are not black for the purposes of this complaint.
57. We began by determining whether the things that the claimant relies on as acts of direct discrimination actually happened. The claimant relies on two things. The claimant says that
- (a) there was a 'trumped up' / bad faith investigation and disciplinary process; and
 - (b) the respondent rushed through the investigation and disciplinary process against her rather than conducting it more thoroughly / slowly, as was the case in respect of Marcus Lee when he faced a formal process.
58. Before setting out our conclusions on each, we make a general observation about the claimant's case and the evidence before us. The claimant was unable to provide any direct evidence to suggest fabrication, bad faith or that the way she was treated related to her race. That is common in discrimination cases. People rarely advertise their prejudices. That is why there is a more favourable burden of proof in discrimination cases under s136 Equality Act 2010 (EqA). Tribunals are often required to consider whether appropriate inferences of discrimination can be drawn from other evidence. The way in which the respondent conducted the various processes and procedures in this case was full of errors some of which were more egregious than others. We have considered whether to draw inferences of bad faith and/or some motive linked to the claimant's race. However, it is notable the respondent's HR team were the driving force behind most of the decisions. The managers involved in the decisions appear to have taken little ownership. In any event, they were managers with whom the claimant had no issues. There were also features that suggest a desire to be fair. For example, the disciplinary investigation itself was comprehensive and balanced. The respondent allowed the claimant to be accompanied to an investigation meeting when she had no statutory right to be accompanied. The decision not to impose a disciplinary sanction was the right one. The inference drawn from the respondent's conduct is that it was incompetent in many respects. However, they did not conduct the processes in bad faith and decisions were not made because of or influenced by the claimant's race.
59. Returning to the claimant's specific allegations:
- (a) To find that the charges were trumped up would require us to find that the accusations were false, fabricated or invented. The disciplinary allegations against the claimant were clearly not false, fabricated or invented. Evidence gathered during the disciplinary investigation suggested that the claimant had disobeyed Marcus Lee, provoked him and shouted at him. This evidence came from independent witnesses. The charges were plainly not trumped up. We also reject the contention that there was bad faith for the reasons already given;

- (b) The investigation process was not rushed. It was conducted relatively quickly. This was appropriate given that the claimant and Mr. Lee were suspended from work throughout the process. All appropriate witnesses appear to have been interviewed (including those identified by the claimant). Furthermore, the claimant's allegation in respect of the investigation process is misconceived. There were not two separate investigation processes involved (i.e. one in respect of the claimant and one in respect of Mr. Lee). There was a single investigation undertaken in respect of the incident on 5 January. We are unable to compare the way the claimant was treated during the disciplinary process in comparison to Mr. Lee as little or no evidence was put before us concerning the process regarding Mr. Lee. However, despite the respondent's shortcomings, we are not persuaded that the disciplinary process in respect of the claimant was rushed. The disciplinary incident took place on 5 January 2024. The investigation was completed by late January. The claimant was notified of a disciplinary process on 1 February. The disciplinary hearing took place on 6 February and the outcome was given on 27 February. The process was not rushed. The claimant made no complaints at the time about the process being rushed despite having union representation.
60. In short, having heard the evidence, we conclude that the things that the claimant said happened did not occur. There were no trumped up charges. The procedures were not conducted in bad faith and were not rushed or insufficiently thorough.
61. The claimant's direct discrimination complaint fails for this reason and we need not address the remaining issues in respect of that complaint.

Harassment related to sex (Equality Act 2010 section 26)

62. Section 26 EqA defines harassment as follows:

26 Harassment

(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.*
- (2) A also harasses B if—*
- (a) A engages in unwanted conduct of a sexual nature, and*
 - (b) the conduct has the purpose or effect referred to in subsection (1)(b).*

63. The claimant alleged that on 19 March 2023, Marcus Lee described a female colleague (Mariana) as a "fucking bitch" when in conversation with the

Claimant. We find that this did occur. Mr. Lee said this.

64. Mr Lee's conduct was plainly unwanted. The claimant objected to it immediately and subsequently pursued a grievance in respect of the behaviour. We accept her evidence that it was unwanted conduct.
65. Mr Lee's comment related to Mariana's sex. The term "bitch" is a gendered term of abuse.
66. The key question is whether that conduct had the purpose or effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant.
67. The words used in s26 EqA suggests a relatively high bar. The word "violating" is a strong word. Offending against or hurting a person's dignity is not enough. The same might be said of the words "intimidating, hostile" etc. All look for effects which are serious and marked.
68. We are not persuaded that the comment made by Mr. Lee had the purpose or effect of violating the claimant's dignity. It was an offensive comment which has no place in the workplace. It also upset the claimant. It was however a one off comment made in anger and directed at someone other than the claimant. It did have the purpose or effect of violating the claimant's dignity.
69. Nor did the comment have the purpose or effect of creating an intimidating hostile, degrading, humiliating or offensive environment for the claimant. The statute requires the behaviour to create the necessary environment for the claimant. This is a case concerning an incident rather than an environment. It was a one off (albeit deeply offensive) comment made in the heat of the moment and which was directed at someone other than the claimant. It was a comment made by the claimant's supervisor and the use of the comment suggests a certain attitude toward female workers. We accept that it upset her. She complained immediately. It was reasonable for her to be upset. However, the one off comment, directed at another member of staff did not create the necessary environment. We have no doubt that the claimant genuinely felt that the environment created by Mr. Lee met the standard required by section 26. However, it is likely to be other incidents of behaviour not just the one relied on in support of the harassment claim that created such an environment.
70. The harassment claim fails for this reason.

Victimisation (Equality Act 2010 section 27)

71. Victimisation is defined in section 27 EQA as:

27 Victimisation

(1) A person (A) victimises another person (B) if A subjects B to a detriment because—

(a) B does a protected act, or

(b) A believes that B has done, or may do, a protected act.

(2) Each of the following is a protected act—

(a) bringing proceedings under this Act;

(b) giving evidence or information in connection with proceedings under this Act;

(c) doing any other thing for the purposes of or in connection with this Act;

(d) making an allegation (whether or not express) that A or another person has contravened this Act.

(3) Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.

(4) This section applies only where the person subjected to a detriment is an individual.

(5) The reference to contravening this Act includes a reference to committing a breach of an equality clause or rule.

72. The Respondent accepts that the claimant did a protected act within the meaning of s27(2) EqA. The protected act was done on 19 March 2023 when the claimant raised a grievance alleging that Marcus Lee had called Mariana a “fucking bitch”.

73. The claimant relies on six things done by the respondent. She says these were detriments done because she did the protected act. In respect of each of these things we had to decide:

- (a) did the respondent do the thing;
- (b) by doing so, did it subject the claimant to a detriment; and
- (c) was it because the claimant did the protected act

74. Taking each of the six things in turn our conclusions are as follows:

- (a) Taking six months to resolve / conclude the grievance process raised by the Claimant in respect of the comment

75. We accept that it took the respondent six months to resolve and conclude the grievance raised by the claimant in March 2023.

76. The EHRC Statutory Employment Code, contains a summary of treatment that may amount to a ‘detriment’ at paragraphs 9.8 and 9.9 including the words:

“Generally, a detriment is anything which the individual concerned might reasonably consider changed their position for the worse or put them at a disadvantage. This could include being rejected for promotion, denied an opportunity to represent the organisation at external events, excluded from opportunities to train, or overlooked in the allocation of discretionary bonuses or performance-related awards.”

77. The inordinate and largely unexplained delay in dealing with the grievance was a detriment.

78. However, we cannot conclude from the evidence before us that the detriment was because the claimant did the protected act. We are not persuaded on the evidence the claimant has proven the necessary causal link. The reason for the delay is because the process was poorly handled. It was not because the claimant had raised the grievance in the first place. The delay was due to

incompetence. It was not some form of retaliation for the claimant raising the grievance.

79. This complaint fails for these reasons.

(b) On 5 January 2024, Marcus Lee speaking to the Claimant in a condescending, aggressive and derogatory manner saying he had had "fucking enough" of the Claimant and the Claimant's husband;

80. We accept that Mr. Lee said these words in the manner alleged. Furthermore, his conduct was a detriment.

81. We do not accept that Mr. Lee said this because the claimant had raised a grievance about him some ten months earlier.

82. The requirement is for the protected act to be a "significant influence" on the detrimental conduct. That requires an influence which is more than trivial. If a discriminatory influence is not a material influence or factor, then it is a trivial influence.

83. It is clear from the evidence that Mr Lee lost control during the incident. He was extremely angry. He overreacted to whatever the claimant did on the day because of the history between the parties. We recognise that the history included the fact that the claimant had raised a grievance. That was no doubt part of the conduct that Mr. Lee was saying he had enough of. However, an event that occurred some ten months earlier in the context of animosity and regular workplace tensions between the parties played only a small part in causing Mr Lee's behaviour on 5 January 2024. It was not a significant influence on his behaviour on the day.

84. This complaint fails for these reasons.

(c) On 5 January 2024, the Respondent suspended the Claimant by telephone instead of face to face;

85. We accept that this happened. Mr Rothwell confirmed the claimant's suspension to her by telephone rather than dealing with this face to face.

86. However this was not a detriment.

87. Furthermore, it was in not done because the claimant had raised the grievance in respect of Mr. Lee some ten months earlier. It was done simply because the claimant, was no longer in the workplace. She needed to be informed of her suspension as soon as possible and it was the most expedient way of doing so.

88. The complaint fails for these reasons.

(d) In January 2024, did the Respondent allow Marcus Lee to remain at work for a week (i.e. failing to suspend Marcus Lee but suspending the Claimant);

89. This event did not happen as the claimant alleges. There was not a one week

delay between the suspension of the claimant and Mr. Lee. The claimant was suspended immediately before the weekend on Friday 5 January 2024. Mr. Lee was suspended immediately after the weekend on Monday 8 January. This was three days, not a week.

90. However, tribunals should not take an unnecessarily pedantic view of pleading or formulation of the issues particularly where the evidence comes out slightly differently than the original allegation. The main thrust of the claimant's complaint is that there was a delay or time lag between her suspension and Mr. Lee's. There was a three day difference between the two. However, that difference was in no sense whatsoever because the claimant had raised a grievance some ten months earlier. The claimant was suspended on 5 January because the respondent only had Mr Lee's account of events at the time. This no doubt painted the claimant in a poor light. By 8 January further information had come into the respondent's possession which suggested that Mr Lee had a significant part to play in the incident. He was immediately suspended at that point.
91. The complaint fails for this reason.
- (e) On 10 January 2024, telling the Claimant she was not allowed a companion and/or not allowing the Claimant to bring a companion to the investigatory meeting.
92. There are two separate allegations here:
- (a) The first is that the claimant was told on 10 January that she was not allowed a companion at the investigation meeting; and
- (b) The second is that the claimant was not allowed to bring a companion to the investigation meeting.
93. We deal briefly with the second of these. The action complained of did not happen. The claimant was permitted to attend the investigation meeting with her union representative and did so.
94. Coming back to the first allegation, the claimant was told in the letter dated 10 January 2024 that she was not permitted to be accompanied to the investigation meeting. However, this was not a detriment. The meeting was an investigation meeting. It was not a disciplinary or grievance meeting. The claimant wrongly perceived this to be a detriment as she misunderstood the legal position.
95. The statutory right to be accompanied to certain meetings arises under section 10 Employment Relations Act 1999 which states:
- 10 Right to be accompanied.*
- (1) This section applies where a worker—*
- (a) is required or invited by his employer to attend a **disciplinary or grievance hearing**, and*
- (b) reasonably requests to be accompanied at the hearing.*

96. This is reflected in the ACAS code of practice for disciplinary and grievance procedures which states:

*"Employers should allow employees to be accompanied at **any formal disciplinary or grievance meeting**."* (our emphasis)

97. An investigation meeting is not a formal disciplinary or grievance meeting. The statutory right to be accompanied does not apply. The statement in the respondent's letter could not reasonably be perceived as a detriment. The claimant had advice from her union at the time who could have explained this to her.
98. Had we decided differently on this point we would have concluded that the reason the respondent made this statement was because of the statutory position set out above and the fact that it is normal employment practice not to permit employees to be accompanied to investigation meetings. This was certainly the respondent's normal practice. The letter concerned was a template letter. The respondent's conduct was in no sense whatsoever because of the claimant's grievance some ten months earlier.
99. This complaint fails for these reasons.
- (f) Commencing and running an investigation and disciplinary process on 'trumped up' / false allegations in bad faith.
100. This did not happen. We refer to our earlier conclusions.
101. The complaint fails for these reasons.
102. Given that none of the complaints are upheld, the question of time limits is not relevant. In any event, the claimant did not advance any evidence as to the reasons for her delay in presenting her claim or as to why it should be just and equitable to extend time in her favour.

**Approved by Employment Judge:
Mr. A Spencer on 15th May 2026**

Written Reasons sent to the parties on

3 June 2026

For the Tribunal office