



## **EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: 8001438/2025**

**Held in Dundee on 16-20 March 2026 and 20-24 April 2026**

**Employment Judge A Strain**

**Ms C Okon**

**Claimant  
Represented by:  
Mr T Benjamin -  
Barrister**

**Tayside Health Board**

**Respondent  
Represented by:  
Ms C MacColl -  
Advocate**

### **JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

The Judgment of the Employment Tribunal is that: the claimant's claims of direct discrimination, victimisation and harassment are unsuccessful and are dismissed.

### **REASONS**

#### **Background**

1. The claimant was represented by Mr T Benjamin, Barrister. The respondent was represented by Ms C MacColl, Advocate.
2. The Parties had submitted an agreed List of Issues for the tribunal to determine in advance of the hearing. Essentially the claimant asserted claims as follows:
  - a. She was subjected to less favourable treatment on the grounds of her race contrary to s.13(1) of the Equality Act 2010 (**EA 2010**);
  - b. She was subjected to race related harassment contrary to s.26(1) EA 2010;
  - c. She was victimised by the Respondent contrary to s.27 EA 2010.

3. The tribunal also had to determine whether or not the direct discrimination and harassment claims were out of time. It was accepted that the victimisation claim had been presented in time.

### **Bundle of Documents**

4. The Parties had lodged a Bundle of Documents with the Tribunal for the purposes of the Hearing which was added to as the hearing progressed.

### **Witnesses**

5. The Tribunal heard evidence from the claimant, Angela Rae (**AR**), Receptionist/Secretary for Pain and Clinical Neuropsychology, Molly Orford (**MO**), Project Support Officer for Major Trauma, Gillian Shepherd (**GS**), Secretary for the Pain Clinic, Alison Livingstone (**AL**), Consultant Psychologist and Lead Clinician for Clinical Neuropsychology, Claire Neilson (**CN**), Clinical Psychologist, Linda Scott (**LS**), PA to the Director of Psychology and Office Manager for Administration, Fiona Small (**FS**), Associate HR Business Lead and Allison Lee (**ALee**), Service Manager, Dundee Health and Social Care Partnership, for the respondent.

### **Findings in fact**

6. Having heard the evidence and considered the documentary evidence before it the Tribunal made the following findings in fact.
7. The claimant is of Black African race.
8. The respondent is a National Health Service Health Board.
9. The claimant was employed by the respondent as a Band 4 PA and Medical Secretary within the respondent's Clinical Neuropsychology service based at Ninewells Hospital, Dundee from 3 July 2023. She was personal assistant to AL who was the Lead Clinician for Clinical Neuropsychology.
10. The claimant's main duties and responsibilities were to act as personal assistant for AL and to undertake medical secretarial duties for Clinical Neuropsychology. This involved making appointments for patients, processing patient referrals, dealing with medical record access requests, managing patient databases, managing waiting lists, typing correspondence for the clinical team, ordering stationery and material for Clinical Neuropsychology, using the respondent's various IT systems such as Trakcare, Ifit, Winvoice, Winscribe and Pecos.

11. The claimant's line manager was LS who was based at the respondent's Dudhope premises at Dudhope Terrace, Dundee.
12. The claimant initially worked in an administration office which doubled as a reception for patients attending clinics along with:
  - a. AR, who was a Band 2 receptionist and secretary who worked 50% for the respondent's Pain team and 50% for Clinical Neuropsychology.
  - b. MO, who, at all material times, was a Band 3 Medical Secretary within the respondent's Major Trauma Service.
  - c. GS, who was Band 4 Secretary for the Pain Clinic.

#### *Induction/Training*

13. The claimant was provided with an induction on commencement which was organised by LS in consultation with AL. This covered departmental structure, admin policies and procedures, introduction to other members of staff, PA duties, management of waiting lists and patient data, Pecos, material ordering, Trakcare, Ifit, Winvoice, appointments, referrals and Winscribe.
14. The induction took place in the first few weeks of the claimant's employment. This involved the claimant splitting her first few weeks between Ninewells and Dudhope.
15. Ongoing training was provided on secretarial/admin duties by MO (who had previous experience of working within Clinical Neuropsychology at a Band 4 level when covering after the claimant's predecessor left for up to a year) with oversight from LS. LS requested MO to provide this training and support.
16. The claimant's colleagues within the admin office provided help, support and assistance to the claimant on an as required basis. They responded to requests from the claimant for assistance or advice when she commenced in post and continued to do so throughout.
17. In January 2024 when Chevonne Rossiter (Band 4 Secretary based at Ryehill Health Centre) was appointed to assist with training. Following Chevonne Rossiter's involvement AR and GS would refer the claimant to her to deal with queries they felt they could not deal with.

#### *Working Environment*

18. Whilst initially the working environment had been good it deteriorated in or around September to October 2023 to the extent that the claimant felt anxious and uncomfortable. The claimant's colleagues MO, AR and GS also felt the

working environment had deteriorated and they found the claimant's responses to assistance from them to be hostile and aggressive. An example of this deterioration was contained within an email from AR to LS of 21 November 2023 (Page 123).

19. In October 2023 LS received feedback from AL and the claimant's colleagues in the admin office raising issues about the claimant, that the claimant was not performing, the standard of the claimant's typing led to work frequently having to be corrected, how the claimant handled patient telephone calls, that the claimant was spending too much time on her phone and online.
20. AR and MO felt work was being disrupted and hampered by the claimant's personal phone use.
21. The claimant at this time was dealing with an emergency situation with her daughter's school and was in the process of buying a house.
22. AR felt the claimant often emphasised the difference in grades between them, didn't say "please" or "thank you" and was told to "come here" like a dog.

#### *Improvement Plan*

23. Following receipt of feedback from AL and the claimant's colleagues, LS decided to implement an improvement plan to help the claimant and identify any further training and support that could be provided to her.
24. LS sent the claimant a Review Meeting Note and Improvement Plan in advance of meeting with the claimant to discuss matters.
25. LS met with the claimant and AL on 29 November 2023 to discuss the Improvement Plan (Pages 124-127 contain notes of the meeting with the claimant's comments).
26. The notes of the meeting set out the issues that were discussed, the claimant's responses and concluded with steps that were to be taken in respect of each issue discussed. Progress would be reviewed.

#### *Waiting List Folders*

27. One of the issues discussed at the Improvement Plan meeting was the updating of Waiting List Folders by the claimant. LS had suggested at the meeting that AR and MO update the waiting lists and that the claimant work with them so she could learn the process.

28. Helen Swanson (**HS**) another clinician within Clinical Neuropsychology had requested that the claimant update the waiting list folders in early November 2023.
29. On 19 December 2023 AL emailed the claimant asking for an update on what was happening with the waiting list folders (Page 139).
30. The claimant responded by email of the same date reminding AL that it had been agreed at the meeting on 29 November 2023 that MO and AR would assist with this (Page 656).
31. AL responded by email of the same date asking the claimant to ensure that MO and AR knew this and the dates working to (Page 656).
32. Around this time the claimant mentioned to AR that the waiting lists needed updated. AR discussed this task with GS. GS told AR that this was not a task for AR as a Band 2 to do. AR then asked AL and AL said that AR did not need to do this task. AR also spoke to LS and LS told her she did not need to do this task as it was a Band 4 task.

#### *20 December 2023*

33. AR came to work “not in good form”. She came to work in an emotional state. It was the anniversary of her mother’s death. She had issues with the claimant’s perceived phone and internet use, the way the claimant spoke to her and the references to the differences in their grades.
34. The claimant asked AR to come over to MO’s desk to show how to do the waiting lists. AR responded “No.” AR told the claimant that AL and LS had agreed she was not to do this task. The claimant told her to “Come over here, its time sensitive, it needs to be done”. AR responded with words to the effect of “Perhaps if you spent less time on your mobile phone and online then it’d be done”. The claimant then shouted at AR with words to the effect of “When was I on my phone”. Both AR and the claimant continued to shout at each other. In the course of their exchange AR said to the claimant “Just go and get on with it”.
35. At this point the nurses’ secretary (Gaynor Wynd) who happened to be in the admin office at that time left the office and fetched AL.
36. AL came into the office and told AR and the claimant to stop, that this kind of behaviour was inappropriate and unacceptable.
37. After AL left the office AR went on a phone call with a patient and the claimant continued to speak to AR. MO intervened and asked the claimant to “stop it”

and come over to her desk and she would show her how to do the waiting lists.

38. The claimant then left the office stating words to the effect of “I’m going to work in another office. If you have anything to say, say it to my face and we’ll get this shit sorted once and for all” and slammed the door on her way out.
39. AL emailed the claimant, MO, AR and GS on the same date informing them that if they wished space they could use one of the free offices (Pages 145-146).
40. The claimant moved to another office in close proximity to the admin office but which was separate and self contained.
41. LS emailed the claimant, MO, AR and GS that afternoon and asked them to send her a short note of events (Page 143).
42. AR’s response was an email of the same date (Page 141). GS’s response was an email of the same date (Page 142). MO’s response was an email of the same date (Page 148).
43. LS agreed with the claimant that with effect from 8 January 2024 she would be based at Ryehill Health Centre every Monday for a period of 6 weeks to allow her to undertake one to one training with Chevonne Rosser who was a Band 4 Secretary with the respondent. With effect from that date the claimant would be based from the room where test equipment was housed adjacent to the admin office. This would be on a Wednesday and Friday and the claimant would work from the admin office the remaining days. The arrangements were to be subject to review. This was confirmed by email of 21 December 2023 (Page 149).

*Training from Band 4 (Chevonne Rosser) and claimant’s work location*

44. The claimant commenced one to one training with Chevonne Rosser on 8 January 2024. Training continued until the end of March 2024.
45. The claimant found this training useful and thanked Chevonne Rosser for her training and support by email of 25 March 2024 (Page 183).
46. The claimant located herself within the room where test equipment was housed adjacent to the admin office and did not return to work in the admin office (other than passing through to pick up papers, files and so on).

*Meeting 8 February 2024*

47. LS convened a meeting on 8 February 2024 between the claimant and AR to try and clear the air. A note was produced of what was discussed at the meeting (Pages 168-169).
48. Both AR and the claimant agreed to draw a line and try to move forward.
49. Relations did not improve between AR and the claimant subsequent to this meeting.
50. AR perceived the claimant to be having digs and chipping away at her. She felt that she was walking on eggshells. She confirmed this in an email to LS on 26 February 2024 (Page 176).

#### *Waiting List Entry in March 2024*

51. AR wrote on the patient daily appointments' outcome sheet "On return MDT whilst needs to appointment for testing with Ruth or Tania? Simon?" (Page 231). Only clinicians should write on the sheets. AR did not inform the claimant that she had written on the sheet and the claimant acted upon it as if it were an instruction from AL.
52. AR's actions led to the claimant being questioned by AL as to why she had booked the patient referred to for testing (Page 188-189).
53. AR had written on the outcome sheet to try and help the claimant.

#### *Appointment of Clare Neilson*

54. CN was asked by Linda Graham (Head of Psychological Therapies) in or around March 2024 to see if she could help to improve the situation within the admin office and the running of the service.
55. CN was a Clinical Psychologist based at Ryehill Health Centre.
56. CN contacted and met with AL, the claimant and her colleagues. She tried to provide support and to resolve issues.
57. CN felt processes were outdated within the admin office. She felt an issue had been created by having MO train the claimant as MO was a Band 3, more junior member of staff.
58. She considered that relationships had broken down between the claimant and her colleagues.
59. CN did not believe racism was an issue with the claimant's colleagues.
60. CN brokered the solution to have the claimant ultimately work elsewhere.

*Colleagues Leaving Lunch 24 April 2024.*

61. AL issued an email on 16 April 2024 to the claimant and her colleagues to the effect that all were invited to their colleague's leaving lunch on Wednesday 24 April at 1pm (Page 211).
62. The claimant did not attend the leaving lunch whereas her colleagues MO and AR did.
63. The claimant accepted that she had received the email from AL.

*Improvement Plan Update*

64. LS produced an updated Improvement Plan with input from AL as at 16 April 2024. This was shared with the claimant who wrote on the document detailing her comments (Pages 212-227).
65. The claimant met with AL and LS to discuss the Improvement Plan in May 2024.

*Sickness Absence*

66. The claimant was absent from work due to illness for the period 17 May 2024 until 3 July 2024.

*Deletion of the claimant's files during sickness absence*

67. On 14 June 2024 the respondent issued an internal bulletin called Vital Signs (Pages 281-284).
68. This bulletin reminded the respondent's employees of the need to data cleanse, properly organise files, documents and spreadsheets. It also reminded employees of the need to comply with data protection and records management requirements.
69. AL considered that compliance with data protection and records management meant that duplicate or unnecessary databases or lists that contained sensitive patient data ought to be deleted to comply with the respondent's legal obligations. AL also considered that departmental shared drives should be properly organised in order to locate, retrieve and use information.
70. AL instructed MO to undertake data cleansing and reorganisation of departmental shared drives during the claimant's absence.
71. MO undertook the data cleansing and reorganisation of shared drives during the claimant's absence. This included deletion of any of the claimant's



databases or lists or documentation which contained patient sensitive information and were unnecessary.

72. The claimant was not informed of this until her return to work. The claimant emailed MO (Page 276) enquiring after documents she could not find upon her return. MO responded by email (Page 277) advising where documents could be found and what had been deleted. The claimant enquired by email who had authorised this (Page 277) and MO responded advising AL and LS had authorised and provided further guidance on where documents could be located (Page 278).
73. No personal files were deleted as MO did not have access to these.
74. Some of the documents deleted were files used for the claimant's work tasks. Their deletion had an impact on the claimant's ability to perform work tasks such as her inability to provide a list of discharge letters to Andrea Limberti, clinician (Page 279).

#### *Grievance*

75. The claimant lodged a grievance under their workplace grievance policy on 15 August 2024 (Pages 318-325) with the assistance of her trade union. The claimant asserted bullying, harassment and racial discrimination claims.
76. The claimant had sufficient information, advice and support from her trade union as at 15 August 2024 upon which to make a claim to the tribunal in respect of race discrimination and harassment.
77. The grievance was forwarded to the HR Business Adviser responsible for Dundee and Angus Health and Social Care Partnership (**DAHSCP**) who, at that time was Robert McGlashan (**RM**).
78. The respondent has an HR case management system in which all grievances should be lodged and tracked. RM did not log the claimant's grievance on the case management system, nor did he action the grievance before going off on sickness absence commencing 4 September 2024. He never returned to work.
79. FS identified that the case management was not up to date in mid-September 2024 and instructed Jennifer Husband (**JH**), HR Team Secretary to search through RM's emails and provide a list of ongoing casework.
80. JH emailed FS on 23 September 2024 with a casework list (Page 603). The casework list is Pages 606-612.
81. On 25 September 2024 CN contacted FS to enquire about progress of the grievance. FS responded by email of the same date to CN advising a meeting

was taking place on 26 September 2024 to review RM's cases (Page 614-615).

82. FS assessed the casework list and identified the claimant's grievance that had not been actioned. FS emailed a request to source an HR Business Adviser to pick up and progress the grievance on 27 September 2024 (Page 616).
83. CN requested a further update from FS by email of 30 September 2024 (Page 614). FS responded by email of the same date (Page 613),
84. Jenny Thomson (**JT**), HR Business Adviser was appointed to provide support to investigate the grievance on 30 September 2024.
85. In early October 2024 ALee was approached by her manager (Jennifer Hill) to take on the grievance investigation. ALee was a service manager with Dundee Health and Social Care Partnership. She had experience of managing medical staff and was independent of the respondent. She had no knowledge of or contact with the claimant prior to being approached.
86. ALee agreed to undertake the investigation and met with JT on 21 October 2024 to plan and discuss how to deal with the grievance investigation.
87. ALee wrote to the claimant on 22 October 2024 inviting her to an investigation meeting on 18 November 2024 (Pages 345-346). This date was the first date that was available for the claimant's trade union representative Ron McComiskie (**RMCC**) to attend.
88. ALee met with the claimant, RMCC and JT on 18 November 2024. Notes of the meeting are at Pages 349-356.
89. ALee then interviewed Sharon Brown on 16 December 2024, CN on 16 December 2024, GS on 18 February 2025, MO on 18 February 2025, AL on 16 May 2025 and AR on 11 June 2025. Notes of the meetings are at Pages, 357,363, 406,413,444 and 455 (starting page numbers).
90. No meetings took place after 16 December 2024 until 18 February 2025 due to the Christmas break and JT's diary being full until then.
91. AL was not interviewed until 16 May 2025 due to sickness absence. She had been absent from 7 January 2025 until a phased return to work around 9 April 2025.
92. AR was not interviewed until 11 June 2025 due to sickness absence. She was absent from work for a period of 11 months from June 2024.
93. AL, CN, MO, GS, SB were all forwarded a copy of the notes of the meetings with them and given the opportunity to amend the notes.

94. ALee finalised her draft report on 1 August 2025 (despite the report being dated 29 July 2025). During the finalisation JT noticed that it didn't appear the claimant had been sent a note of her meeting.
95. The claimant was not sent a copy of the notes of her meeting until JT sent them by email of 4 August 2025 (Page 701).
96. The claimant was not sent a copy of the note of her meeting due to oversight on the part of JT.
97. The claimant amended the notes of her meeting and sent these to JT on 6 August 2025 (Page 702).
98. ALee considered the claimant's amendments and that the information amended did not change her decision on the grievance outcome.
99. The claimant was invited to attend a meeting to discuss the grievance outcome on 29 September 2025 by letter of 9 September 2025. This was the first available date for the claimant's trade union representative RMCC to attend.
100. The claimant, RMCC, ALee and JT met on 29 September 2025 and the grievance outcome was shared with her.
101. The claimant was sent a copy of the report by email of 29 September 2025 following the meeting (Pages 509-520).
102. LS was not interviewed due to having retired.

#### *ACAS Conciliation*

103. The claimant applied for conciliation on 27 March 2025. Conciliation ended on 7 May 2025.

#### *Lodging ET1*

104. The claimant lodged her ET1 on 6 June 2025.

### **The relevant law**

#### *Direct racial discrimination*

105. Direct discrimination occurs where "*because of a protected characteristic, A treats B less favourably than A treats or would treat others*" (section 13(1), EA 2010).

106. The less favourable treatment must be because of a protected characteristic. This requires the tribunal to consider the reason why the claimant was treated less favourably: what was the Respondent's conscious or subconscious reason for the treatment?
107. The tribunal will need to consider the processes which led A to take a particular course of action in respect of B, and to consider whether a protected characteristic played a significant part in the treatment.
108. If the treatment of B puts them at a clear disadvantage compared with others, then it is more likely that the treatment will be less favourable.
109. There must be no material difference between the circumstances of B and the comparator (section 23(1), EA 2010).

### *Harassment*

110. Section 26(1) of the EA 2010 provides:

*A person (A) harasses another (B) if A engages in unwanted conduct related to a relevant protected characteristic which has the purpose or effect of either:*

- (i) Violating B's dignity, or*
- (ii) Creating an intimidating, hostile, degrading, humiliating or offensive environment for B.*

111. Section 26(4) EA 2010 provides:

*In deciding whether conduct shall be regarded as having the effect referred to 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.*

112. The “effect” is judged by both subjective perception and objective reasonableness – **Richmond Pharmacology v Dhaliwal [2009] IRLR 336.**

### *Victimisation*

113. Section 27(1) of the EA 2010 provides:

*Victimisation occurs where a person (A) subjects another person (B) to a detriment because either:*

*B has done a protected act.*

*A believes that B has done, or may do, a protected act.*

114. Section 27(2)(a) provides that bringing proceedings under the EA 2010 is a protected act.
115. Section 27(2)(d) provides that alleging (whether or not expressly) that another person has contravened the EA 2010 is a protected act.
116. Victimisation may be established where an employee is subjected to a detriment "because" the employee has done (or might do) a protected act.
117. Victimisation need not be consciously motivated. If A's reason for subjecting B to a detriment was unconscious, it can still constitute victimisation [**Nagarajan v London Regional Transport and others [1999] IRLR 572**].
118. A protected act need not be the main or only reason for the treatment; victimisation will occur where it is one of the reasons (paragraph 9.10, EHRC Services Code).
119. However, the protected act must be more than simply causative of the treatment (in the "but for" sense). It must be a real reason.
120. Detriment is not defined in the EA 2010. **Shamoon v Chief Constable of the Royal Ulster Constabulary [2003] UKHL 11** held that a worker suffers a detriment if a reasonable worker would or might take the view that they have been disadvantaged in the circumstances in which they had to work.
121. An "unjustified sense of grievance" is not enough [**Barclays Bank plc v Kapur (No.2) [1995] IRLR 87**].

#### *Burden of Proof*

122. A two-stage approach to the burden of proof applies [**Royal Mail Group Ltd v Efofi [2021] UKSC 33**]:
  - Stage 1: can the Claimant show a prima facie case? If no, the claim fails. If yes, the burden shifts to the Respondent.
  - Stage 2: is the Respondent's explanation sufficient to show that it did not discriminate?
123. The burden will shift where there are facts from which a tribunal could decide, in the absence of any other explanation that a breach has occurred. In that situation a respondent is required to show a non-discriminatory explanation for the primary facts on which the prima facie case is based [**Glasgow City Council v Zafar [1998] IRLR 36 (HL)**].

**Submissions**

124. Both Parties lodged written submissions which were spoken to. Both Parties were in agreement as to the relevant law that applied to the case.

125. In essence, the respective Parties submissions were as follows:

*The Claimant*

126. Mr Benjamin submitted that the claimant had been racially discriminated against, victimised and harassed by reference to each of the incidents specified in the agreed list of issues.

127. He also asserted that the alleged acts of discrimination, harassment, and victimisation constituted a continuing course of conduct which extended from July 2023 to the last incident on 5 March 2025. As such, the claims were presented in time.

128. He made no submission on just and equitable extension of time if the tribunal were not with him on his submission that the claims were in time.

129. He invited the tribunal to prefer the evidence of the claimant and to find that the proper inference to be drawn from the evidence is that race/the protected acts had a significant influence on the actions of the respondent's employees. He submitted that such an inference should be drawn in all the circumstances (and that the burden of proof should shift to the respondent). He argued the tribunal should find an adverse inference on the evidence.

130. He submitted that the evidence supported a pattern in which the claimant's actions were interpreted through a racialised lens including the stereotype of the "aggressive, abrasive or angry Black woman". The claimant was the recipient of hostility, raised voices, exclusion and inconsistent standards.

131. The hypothetical comparator relied upon was a comparator who did not share the claimant's protected characteristic.

132. Mr Benjamin invited the tribunal to find that the actions of the respondent amounted to acts of Direct Discrimination on the grounds of race, Harassment related to her race and Victimisation.

133. He addressed each of the incidents detailed in the list of issues in turn and invited the tribunal to prefer the evidence of the claimant in each.

134. In his submissions he drew reference to incidents which were not included in the list of issues or in the claimant's pleadings. An example of this was the reference to GS stating the claimant was talking nonsense and hanging up the phone on her in paragraph 47 of his submissions.

*The Respondent*

135. Ms McColl submitted that the application should be dismissed in its entirety. She had no disagreement with Mr Benjamin on the substantive law, but the claimant's claims fell on consideration of the facts and that, other than the victimisation claim, the claims were out of time.
136. In so far as time bar was concerned, she submitted that no evidence had been led by the claimant on the alleged incident of 5 March 2025. The last incidents relied upon in respect of the direct discrimination claim and harassment claim were 3 July 2024 and August 2024 respectively.
137. No evidence had been led to suggest that extension of time should be made on just and equitable grounds and in any event it would not be fair or equitable to extend the time limit in this case. The claimant was aware of all the information needed to make a claim and had the support of her union when lodging the grievance on 15 August 2024. There would also be prejudice to the respondent in respect of differing accounts from witnesses due to the passage of time. LS evidence was highlighted in this regard.
138. On the incidents alleged she submitted that there was no direct evidence of racism and:
- a. there were no facts or inferences to be drawn from the evidence to suggest any conduct which demonstrates or infers that the claimant was treated differently from any hypothetical colleague in sufficiently similar circumstances to those in this case.
  - b. even were the tribunal to find such facts or inferences, there are no facts or inferences to be drawn from the evidence to suggest that any treatment of the claimant was on the ground of race.
139. Ms McColl invited the tribunal to dismiss the claims.
140. In light of Ms McColl's submissions (particularly on time bar) the tribunal offered Mr Benjamin the opportunity to respond. Mr Benjamin did not wish to make any further submissions.

**Observations on the evidence**

141. The tribunal had no issue with regard to the credibility and reliability of any of the witnesses.
142. All gave evidence which supported the factual events. There were some factual inconsistencies between witnesses such as the evidence of LS with regard to whether or not she gave instruction to delete the documents during the claimant's absence on sick leave.

143. What was clear was that whilst relations had been good initially upon the claimant's commencement in the Band 4 role, relations had deteriorated with the claimant's colleagues MO, GS, AR within a matter of months.
144. All of the witnesses spoke of the atmosphere in the office and the varying perceptions as to the cause of this.
145. The claimant felt she was not being adequately supported or trained and was being ostracised by her colleagues. Her colleagues felt the claimant was hostile and aggressive towards them when they offered help and assistance, that she was spending too much time on her phone or online and was not completing tasks to a satisfactory standard.
146. Relations clearly broke down on every version of events and this led to the claimant being moved elsewhere so as to minimise contact with her colleagues. This was so as to protect both parties.
147. The claimant was also provided with Band 4 training with effect from 8 January 2024.
148. What was also clear was that the Clinical Neuropsychology department had its own way of working. This was highlighted by both AL and CNs' evidence. CN was critical of the culture and working practices within the department but did not believe racism was an issue.
149. There was no direct evidence of racism from any of the witnesses.
150. The claimant felt that she was being treated differently due to her race.
151. The respondent's witnesses gave explanation for their comments and actions towards the claimant which were not due to her race.

### **Decision and Reasons**

152. The tribunal considered the List of Issues in turn.

#### *Time Bar*

153. The tribunal agreed with Ms McColl that no evidence had been led by the claimant on the incident she alleged in her pleadings which was said to have taken place on 5 March 2025. The incident was disputed by the respondent.
154. In the absence of any evidence the tribunal could not find that the incident alleged had taken place. The incident of 5 March 2025 was not established.
155. The tribunal note from the claimant's written pleadings and the claimant's evidence that by 5 March 2025 she was not working in the admin office at



Ninewells. She was working at Dudhope Terrace. The incident of 5 March 2025 is said to have occurred with a member of staff that worked there.

156. If that had been the sum and substance of the claimant's evidence, then it is difficult to see any basis for finding that this incident could have formed part of a "continuing course of conduct". If it did occur, then it would appear to have a separate and distinct act absent any evidence to the contrary.
157. The tribunal then considered the issue of time bar in respect of each of the claims under exclusion of the 5 March 2025 incident.

*Direct Discrimination contrary to section 13 of the EA 2010*

158. The incidents relied upon (excluding the incident of 5 March 2025) were said to have taken place at the commencement of employment (July 2023), 24 April 2024 and 3 July 2024.
159. Even if the tribunal considered and found these were a continuing course of conduct then the direct discrimination claim was considerably out of time. The claim should have been presented within 3 months of 3 July 2024. The claim was not presented until 6 June 2025. The claimant had the assistance of her trade union and knowledge of her claims by 15 August 2024.
160. The tribunal had no evidence or submissions as to why it would have been just and equitable to extend the time limits.
161. The tribunal did have submissions from the respondent as to why it would not have been just and equitable to extend the time limits and potential prejudice to the respondent.
162. The burden of proof is on the claimant to establish that it is just and equitable to extend time ***[Robertson v Bexley Community Centre [2003] IRLR 434]***.
163. In light of the absence of any evidence and submissions as to why it would have been just and equitable to have extended time by the claimant, the fact that the claimant had the support of her trade union and knowledge of her claims by 15 August 2024, the length of the delay and the respondent's submissions on prejudice, the tribunal had no hesitation in finding that it would not be just and equitable to extend the time limit in the circumstances and the claims are accordingly dismissed as out of time.
164. In any event the tribunal would not have found the claimant's claims regarding the alleged less favourable treatment to have been established on the evidence.

*a. The claimant's colleagues refused to help the claimant in the first few weeks of her employment and instead asked her to contact another colleague who worked in a separate office for assistance.*

165. The tribunal accepted the evidence of all the witnesses (including the claimant) that she was provided with induction and training on commencement of her employment. Relations with her colleagues were good and they provided help and assistance to her when requested to do so. MO provided her with training.
166. The claimant's colleagues did ask her to contact Chevonne Rossiter subsequent to 8 January 2024 to deal with queries they felt they could not appropriately assist with.
167. As a matter of fact this allegation is unsubstantiated and contrary to the evidence.

*b. By failing to invite the claimant to a colleague's leaving lunch on 24 April 2024.*

168. The claimant was invited by email of 16 April 2024 from AL.
169. As a matter of fact this allegation is unsubstantiated and contrary to the evidence.

*c. By deleting the claimant's files during her sickness absence.*

170. The tribunal accepted AL and MO's evidence that the files and documents that were deleted were required to be deleted due to data protection requirements and records management. No personal files were deleted as they did not have access to these.
171. The claimant was on sickness absence and AL did not know when she was to return to work.
172. The tribunal found no evidence to support the assertion that this was less favourable treatment than a comparator. This appeared to be a routine and reasonable task.
173. Even if it were the case that the claimant was treated less favourably, the tribunal was satisfied that this was not on the grounds of the claimant's race. The explanations given for the actions taken by AL and MO were accepted by the tribunal and were entirely reasonable and equally applicable to a comparator.
174. The claimant's claims of Direct Discrimination are accordingly dismissed.

*Harassment contrary to section 26 of the EA 2010*

175. The incidents relied upon (excluding the incident of 5 March 2025) were said to have taken place at the commencement of employment (July 2023), November 2023, 20 December 2023, March and April 2024, 24 April 2024 and August 2024.
176. Even if the tribunal considered and found these were a continuing course of conduct then the harassment claim was considerably out of time. The claim should have been presented within 3 months of August 2024. The claim was not presented until 6 June 2025. The claimant had the assistance of her trade union and knowledge of her claims by 15 August 2024.
177. The tribunal had no evidence or submissions as to why it would have been just and equitable to extend the time limits.
178. The tribunal did have submissions from the respondent as to why it would not have been just and equitable to extend the time limits and of potential prejudice to the respondent.
179. The burden of proof is on the claimant to establish that it is just and equitable to extend time.
180. In light of the absence of any evidence and submissions as to why it would have been just and equitable to have extended time by the claimant, the fact that the claimant had the support of her trade union and knowledge of her claims by 15 August 2024 and the respondent's submissions on prejudice, the tribunal had no hesitation in finding that it would not be just and equitable to extend the time limit and the claims are accordingly dismissed as out of time.
181. In any event the tribunal would not have found the claimant's claims regarding the alleged harassment to have been established on the evidence.
182. The claimant relied on the following conduct:
  - a. Her colleagues' unwillingness to assist her in July 2023.
183. The tribunal accepted the evidence of all the witnesses (including the claimant) that she was provided with induction and training on commencement of her employment and that relations were good in July 2023. MO, in particular, and AR assisted and supported the claimant upon commencement of her employment and throughout July 2023.
184. The evidence did not support the claimant's assertion as at July 2023.
  - b. Being subject to an improvement plan without justification in November 2023.

185. The claimant was subject to an improvement plan at the instance of LS. LS felt she was acting a supportive manner towards the claimant and was helping the claimant by using this process.
186. The improvement plan highlighted issues with the claimant's performance and matters which had been raised by her colleagues and AL with LS such as personal phone calls and online usage.
187. The tribunal accepted LS's evidence that the improvement plan was not in any way related to the claimant's race and was intended to be a mechanism to support the claimant.
188. The evidence again did not support the claimant's assertion.
  - c. Her colleague AR shouting at her on 20 December 2023 that she should "just go and get on with it" in reference to her work.
189. Whilst there clearly was an angry exchange between the claimant and AR these comments were made in the context of a disagreement between both parties and in respect of which voices were raised.
190. AR's explanation for the comments and her behaviour was with reference to AR coming to work "not in good form". She came to work in an emotional state. It was the anniversary of her mother's death. She had issues with the claimant's perceived phone and internet use, the way the claimant spoke to her and the references to the differences in their grades. Her comments were not in any way related to the claimant's race and could have equally applied to a comparator who did not share the claimant's protected characteristic.
191. The tribunal accepted AR's explanation and did not find that her conduct was related to the claimant's race.
  - d. being excluded from her colleague's leaving lunch on 24 April 2024.
192. The claimant was not excluded. The claimant was invited by email of 16 April 2024 from AL. The claimant did not attend the event.
193. The evidence again did not support the claimant's assertion.
  - e. having her waiting list entries altered in March and April 2024
194. AR accepted that she had written on the entries. The claimant had acted on these believing the writing to have been from AL. The tribunal accepted AR's explanation that she was trying to be helpful to the claimant in so doing.
195. AR's actions were in no way related to the claimant's race.

- f. having her audit trail deleted in August 2024 after relying on it in evidence in May 2024.
196. The claimant's evidence was that she had shown a version of an MDT file that contained version history to CN. This was deleted and the claimant discovered this in August 2024.
197. As detailed above, the tribunal accepted the explanation why files and documents had been deleted and/or reorganised during the claimant's sickness absence.
198. There was no evidence the file deletion related to the claimant's race.
199. The claimant's claims in respect of harassment are accordingly dismissed.

*Victimisation contrary to section 27 of the EA 2010*

200. It was accepted that the lodging of a grievance on 15 August 2024 was a protected act and that the victimisation claim had been presented in time.
201. The alleged detriment to the claimant was the delay in investigating her grievance.
202. It was clear that there had been considerable delay in investigating and concluding the grievance process.
203. The tribunal accepted the evidence of ALee and FS as to why there had been delays.
204. Delays were due to RM not logging the grievance in the case management system, RM's absence and then leaving employment, the reconstruction of his case load through examination of emails, necessary witnesses such as AR and AL being on long term sickness absence, Festive holidays.
205. The tribunal accepted the delay was not in any way deliberate or contrived. It was due to circumstances at the time. The delay was not because the claimant had done a protected act.
206. The victimisation claim is unsuccessful and is dismissed.

*Failure to comply with the ACAS Code of Practice on Disciplinary and Grievance Procedures.*

207. The claimant's claims have been unsuccessful so there could be no uplift even if the tribunal found the ACAS Code of Practice had not been complied with.

208. In any event the tribunal accepted the respondent's explanations for the delay in the process and would not have granted an uplift.

**Date sent to parties**

**22 May 2026**