



EMPLOYMENT TRIBUNALS

Claimant: Mr Waqar Abbas
Respondent: Slough Borough Council

Heard at: Watford Employment Tribunal (in person)
On: 22 to 30 April 2026 (7 days)
Before: Employment Judge French
Mr P Miller
Mr A Scott

Representation

For the Claimant: In person
For the Respondent: Mr S Bishop, counsel

JUDGMENT having been sent to the parties on 20 May 2026 and written reasons having been requested in accordance with Rule 60 of the Employment Tribunals Rules of Procedure, the following reasons are provided:

FULL REASONS

Introduction

1. The claim was before the Tribunal for 7 days between 22 to 30 April 2026. Oral reasons were provided at the hearing, but the claimant did not remain in the Tribunal to hear them all, albeit his wife did. On the 30 April 2026 the claimant requested written reasons of the decision by email. This was not referred to Employment Judge French until 14 May 2026 who had a period of leave and subsequent sitting commitments in another jurisdiction. These reasons have been provided as soon as possible thereafter, and the Tribunal apologises for the delay.
2. By claim form presented on 4 February 2021 the claimant brings complaints of unfair dismissal, race discrimination, religious discrimination, disability discrimination, harassment related to race/religion and disability and victimisation. There was previously a complaint of sex discrimination but that was dismissed upon withdrawal by the claimant.

The issues

3. The list of issues is contained in the case management order of Employment Judge Maxwell made on 3 July 2023 and appearing at pages 118 to 122 of the respondent's bundle. They were confirmed by the parties at the outset of the hearing as being the list of issues to be determined. They are repeated here using the same numbering:

Time limits

- 1.1 Whether the Claimant's claims were presented within the applicable statutory time limit.

Unfair dismissal

- 2.1 What was the reason or principal reason for dismissal? The Respondent says the reason was redundancy.
- 2.2 If the reason was redundancy, did the Respondent act reasonably in all the circumstances in treating that as a sufficient reason to dismiss the Claimant. The Tribunal will usually decide, in particular, whether:
 - 2.2.1 The Respondent adequately warned and consulted the Claimant;
 - 2.2.2 The Respondent adopted a reasonable selection decision, including its approach to a selection pool;
 - 2.2.3 The Respondent took reasonable steps to find the Claimant suitable alternative employment;
 - 2.2.4 Dismissal was within the range of reasonable responses.

Disability

- 3.1 Did the Claimant have a disability as defined in section 6 of the Equality Act 2010 at the time of the events the claim is about? The Tribunal will decide:
 - 3.1.1 Whether the Claimant had a physical or mental impairment, namely:
 - 3.1.1.1 Epilepsy.
 - 3.1.2 Whether this had a substantial adverse effect on the Claimant's ability to carry out day-to-day activities?
 - 3.1.3 If not:
 - 3.1.3.1 whether the Claimant have medical treatment, including medication, or take other measures to treat or correct the impairment;
 - 3.1.3.2 Would the impairment have had a substantial adverse effect on her ability to carry out day-to-day activities without the treatment or other measures?
 - 3.1.4 Were the effects of the impairment long-term? The Tribunal will decide:
 - 3.1.4.1 did they last at least 12 months, or were they likely to last at least 12 months?
 - 3.1.4.2 if not, were they likely to recur?

4. Direct discrimination (Equality Act 2010 section 13)

4.1 The Claimant describes himself as Pakistani. He is also Muslim.

4.2 Did the Respondent do the following things:

4.2.1 between April 2019 and September 2020, Ms Hothi failing to offer the Claimant appreciation for his work [race and religion];

4.2.2 in summer 2019, Ms Hothi telling the Claimant not to come to her unless it is urgent [race & religion];

4.2.3 in summer 2019, Ms Hothi being told of the Claimant's application for the vacant position of Network Officer [race & religion];

4.2.4 in July 2019, Ms Hothi saying to the Claimant that he took steroids [race];

4.2.5 in July 2019 (about a week after the steroids comment) Ms Hothi telling people not to talk to the Claimant because he might punch them [race & religion];

4.2.6 between July and August 2019, Ms Hothi allocated her official duties (i.e. delegated important tasks) to others but not the Claimant [race & religion];

4.2.7 in August and October 2019, being required to explain why he wanted to leave work early, when he had flexi time credit [race & religion];

4.2.8 in September 2019, Ms Hothi stating "even when I am not in the office I always know in my absence that what is happening in office including any activity taking place by an individual" [race];

4.2.9 in September 2019, Ms Hothi saying "it is not my level I deal with your work, wait until Melissa will be back" [race and religion];

4.2.10 in October 2019, Ms Hothi said she did not know of the Claimant's disability, when this was untrue [disability, race and religion];

4.2.11 in November 2019, Ms Hothi and Ms Ashby decided they did not want the Claimant in the team [race & religion];

4.2.12 In April 2020, Ms Hothi forcing the Claimant to go into the office when Covid was at its peak [disability, race and religion];

4.2.13 In April 2020, Ms Hothi failing to acknowledge the risk of Claimant suffering a seizure or blackout, when she knew about it because he had informed her several times [disability, race and religion];

4.2.14 an email of 13 May 2020, which stated the Claimant had not updated his Flex timesheets [race & religion];

4.2.15 on 15 May 2020, Ms Hothi threatening the Claimant with a sickness review meeting [race];

4.2.16 on 18 May 2020, Ms Ashby saying "whatever you will write, at the end it will come to me as I am your line manager, therefore, if you tell me or not it will still come to me" [race];

4.2.17 in May 2020, Ms Ashby not listening to the Claimant and taking Ms Hothi's side [race];

4.2.18 on 22 May 2020, the Claimant being subject to a stage 1 review meeting [race, religion and disability]

4.2.19 on 27 May 2020, Ms Hothi alleging the Claimant did not attend an occupational health appointment [race & religion];

4.2.20 on 22 October 2020, Ms Hothi shouting at the Claimant “if I ever hear it then I will terminate you, this is my first and last warning to you” following him having ended an abusive telephone call [race and religion];

4.2.21 Ms Hothi saying “there might be people around” [disability, race and religion].

4.3 Did the Respondent’s treatment amount to a detriment?

4.4 Was that less favourable treatment?

The Tribunal will decide whether the Claimant was treated worse than someone else was treated. There must be no material difference between their circumstances and the Claimant’s. If there was nobody in the same circumstances as the Claimant, the Tribunal will decide whether they were treated worse than someone else would have been treated (a hypothetical comparator).

4.5 If so, was it because of race, religion or disability [as indicated above]?

5. Harassment (Equality Act 2010 section 26)

5.1 Did the Respondent do the following things:

5.1.1 in summer 2019, Ms Hothi telling the Claimant not to come to her unless it is urgent [race & religion];

5.1.2 in July 2019 (about a week after the steroids comment) Ms Hothi telling people not to talk to the Claimant because he might punch them [race & religion];

5.1.3 in August and October 2019, being required to explain why he wanted to leave work early, when he had flexi time credit [race & religion];

5.1.4 in September 2019, Ms Hothi stating “even when I am not in the office I always know in my absence that what is happening in office including any activity taking place by an individual” [race];

5.1.5 in September 2019, Ms Hothi saying “it is not my level I deal with your work, wait until Melissa will be back” [race and religion];

5.1.6 an email of 13 May 2020, which stated the Claimant had not updated his Flex timesheets [race & religion];

5.1.7 in May 2020, Ms Ashby not listening to the Claimant and taking Ms Hothi’s side [race];

5.1.8 on 15 May 2020, Ms Hothi threatening the Claimant with a sickness review meeting [race];

5.1.9 on 18 May 2020, Ms Ashby saying “whatever you will write, at the end it will come to me as I am your line manager, therefore, if you tell me or not it will still come to me” [race];

5.1.10 on 22 May 2020, the Claimant being subject to a stage 1 review meeting [race, religion and disability]

5.1.11 on 27 May 2020, Ms Hothi alleging the Claimant did not attend an occupational health

appointment [race & religion];

5.1.12 on 22 October 2020, Ms Hothi shouting at the Claimant “if I ever hear it then I will terminate you, this is my first and last warning to you” following him having ended an abusive telephone call [race and religion];

5.2 If so, was that unwanted conduct?

5.3 Did it relate to race, religion or disability [as indicated above]?

5.4 Did the conduct have the purpose of violating the Claimant’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the Claimant?

5.5 If not, did it have 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.

6. Victimisation (Equality Act 2010 section 27)

6.1 Did the Respondent believe that the Claimant had done or might do a protected act:

6.1.1 Submit a grievance alleging discrimination.

6.2 Did the Respondent do the following things:

6.2.1 in September 2020, Ms Hothi removing the Claimant from a WhatsApp group.

6.3 By doing so, did it subject the Claimant to detriment?

6.4 Was it because the Respondent believed the Claimant had done, or might do, a protected act?

7. Remedy

7.1 To what remedy or remedies is the Claimant entitled.

Preliminary issues

4. At the outset of the hearing there were issues surrounding the preparation of and reliance on the final hearing bundle. The Tribunal was in possession of a bundle from the respondent containing 1220 pages. The claimant had separately produced a bundle containing 310 pages. This claimant’s bundle was not paginated but the Tribunal were able to navigate the same through electronic numbering.
5. The claimant’s position was that the respondent should not be allowed to rely on their bundle because it had been served late. He stated that his bundle contained all the documents which the Tribunal would need to see. The respondent did not agree that the claimant’s bundle contained all relevant documents and noted that at various points, the documents produced included commentary by the claimant.
6. As to the history concerning the bundle, the Tribunal understand that when an initial bundle was provided to the claimant by the respondent in April 2025 it ran to 1185 pages. The claimant did not engage to agree that bundle but instead

sent back over 100 pages which were not paginated or indexed. The claimant then subsequently produced his own bundle being the 310 page bundle that we are in possession of.

7. In conducting a final hearing readiness check, issues with the bundle did arise and the parties were directed by the Tribunal to exchange an agreed bundle by 2 April 2026. This was not provided by the respondent until 17 April 2026 and it was on this basis that the claimant said it had been served late.
8. In order to progress the claim, the Tribunal took a pragmatic approach and suggested that both bundles be relied upon. This was consistent with both parties having carried out their preparations based on the respective bundles and was in accordance with the overriding objective to progress the claim without further delay dealing with satellite issues concerning the bundle.
9. Further the claimant was asked at the outset of the hearing whether he was ready and able to proceed despite any late service of the bundle, and he confirmed that he was able to.
10. There was also an application made by the claimant for strike out of the response. This was made on the basis that the respondent had failed to comply with Tribunal orders.
11. The application largely concerned an earlier failure by the respondent to present a response in time for which they were granted an extension of time, and the response accepted. The claimant took the point that no extension of time should have been granted and invited the Tribunal to proceed straight to remedy. It was explained that if the claimant took issue with the decision to have granted the respondent an extension of time for presenting a response, his recourse was by way of re-consideration or appeal to the Employment Appeal Tribunal (within the relevant time limits) and would not be re-visited by ourselves.
12. We went on to look at strike out on the basis of non-compliance with tribunal orders.
13. Rule 38 provides: *(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds—*

(c) for non-compliance with any of these Rules or with an order of the Tribunal.
14. In deciding whether to strike out a party's case for non-compliance with an order under rule 38(1)(c), a tribunal will have regard to the overriding objective set out in rule 3 of seeking to deal with cases fairly and justly. This requires a tribunal to consider all relevant factors, including:
 - the magnitude of the non-compliance
 - whether the default was the responsibility of the party or his or her representative
 - what disruption, unfairness or prejudice has been caused
 - whether a fair hearing would still be possible, and

- whether striking out or some lesser remedy would be an appropriate response to the disobedience — Weir Valves and Controls (UK) Ltd v Armitage 2004 ICR 371, EAT.
15. The Tribunal took the view that there had been non-compliance with the Tribunal's order in that the bundle had been served late. However, in looking at the magnitude of the non-compliance, although served late, the claimant had had version 5 of the bundle since April 2025, and version 6 of the bundle served on 17 April 2026 added very little by way of documents. The version provided on 17 April 2026 added pages 1186 to 1220 being documents relating to a phase 2 consultation and reorganisation. The claimant had otherwise been in possession of the 1225 pages of that bundle since April 2025 so for over 1 year.
 16. The Tribunal also noted that the non-compliance was not at the fault of the respondent in its entirety and it was clear that they had attempted to engage with the claimant over the bundle and the claimant's position had been that it was not agreed and he provided his own unpaginated and unindexed documents.
 17. In terms of the prejudice caused, the claimant did not at that stage indicate that the late service of the bundle caused him any difficulties and in fact explicitly confirmed he was ready and able to proceed. The Tribunal concluded in those circumstances that a fair trial was possible and had already allowed reliance on both bundles that had been prepared. Therefore, the claimant was able to rely on the bundle that he had prepared for the purposes of the proceedings by way of his cross examination of the witness and taking the Tribunal to relevant documents.
 18. The Tribunal concluded that striking out of the response in those circumstances would be a disproportionate response which had been remedied already by the decision to proceed with both of the bundles prepared and which was in accordance with the overriding objective. The strike out application was therefore refused.

The evidence

19. In terms of the documents that this tribunal had before it, we had two bundles. The respondent's Version 6 bundle that ran to 1220 pages. We then had a claimant hearing bundle that ran to 310 pages and, in the course of our reasons, we will refer to each one respectively, respondent bundle (RB) or claimant bundle (CB).
20. For the respondent we had witness statements from:
 - Anna Bokniak-Tyolewicz
 - Gurdip Bahia
 - Kam Hothi
 - Melissa Ashby, and

- Sharon Kaila

21. All of those witnesses attended the tribunal and gave evidence.
22. There was also a statement produced by Tobias White. He did not attend to give evidence. The respondent confirmed that they were not seeking to rely on that statement in the circumstances, and the tribunal confirmed we have not placed any weight on that statement in circumstances where Mr Abbas has not had the opportunity of cross examining that witness.
23. The claimant had produced two witness statements from himself. One was 26 pages, the other was 68 pages. We checked at the outset whether or not the claimant was relying on both of those witness statements or one version because it appeared that the written content was the same in terms of his text, but the 68 page version included screenshots and extracts from various documents within it. The claimant confirmed he was relying on the 26 page version.
24. As part of this litigation the claimant was directed to produce that witness statement on all relevant matters and at the outset as set out above confirmed this was the 26 page statement before us.
25. In closing submissions, the claimant did, for the first time, take us to a witness statement that he had prepared for an earlier Rule 22 remedy hearing, and that was prepared and listed before the respondent had been granted an extension of time for presentation of its response. That witness statement appears at page 1083 of the respondent's bundle.
26. The first time the Tribunal were taken to this document was in closing submissions by the claimant. When confirming his witness evidence at the outset the claimant did not suggest that there was a third statement to the two we had already identified.
27. The tribunal make this observation: The claimant did not adopt the contents of that third statement by way of the 26 page statement relied on for the final hearing. At the outset of the proceedings, we confirmed what witness statement he was relying on and that was confirmed to be that 26 page document. We also confirmed that our reading would be limited to the witness statements and, where a statement cross referred to a document, we would read that document. We made clear we otherwise would not read any documents in the bundle unless either party asked us to read it or took a witness to it in cross examination. There was no request by either party at the outset to read any additional documents save for Mr Bishop on behalf of the respondent had some suggested reading in his opening note.
28. When the claimant was called to give evidence, he did not swear to the truth or accuracy of the statement at page 1083 because the Tribunal were completely unaware of it.
29. The contents, we note, were prepared for a different purpose in any event, after

which there was a separate direction to produce a witness statement that contained all relevant information. On that basis, Mr Bishop did not cross examine the claimant on that statement. The Tribunal has therefore not had regard to the same by way of witness evidence adduced by the claimant.

30. The claimant made a grievance in relation to these matters which is contained in the respondent's bundle. That is not a witness statement, but we have regard to it by way of documentary evidence in support of the claim and what he said at the time about it. We make the general observation that the decisions reached in the grievance and the appeal process do not bind this tribunal. This is a separate process, and we can reach a separate conclusion based on the burden of proof and documentary evidence before us.
31. We would add that despite the claimant confirming at the outset that he was ready and able to proceed, the claimant suggested through the course of the 7 day hearing that he was unable to answer a question or put a question to a witness because he had not had the 1220 page bundle from the respondent until 17 April 2026. The Tribunal does not accept that suggestion in circumstances where the version provided on 17 April 2026 added pages 1186 to 1220 being documents relating to a phase 2 consultation and reorganisation. The claimant had otherwise been in possession of the 1225 pages of that bundle since April 2025 so for over 1 year. In any event the claimant's position had been that his bundle contained all relevant documents and of course he would have been familiar with his own bundle such to answer or put questions to witnesses.
32. The Tribunal makes the observation that during the course of the proceedings the claimant largely relied on the respondent's bundle of evidence when cross examining the witnesses. This was despite his position that his bundle contained all relevant documents and that he was unfamiliar with the respondent's bundle.

The law

Unfair dismissal

33. Section 94 of the Employment Rights Act 1996 confers on employees the right not to be unfairly dismissed. Enforcement of the right is by way of complaint to the Tribunal under section 111. The employee must show that he was dismissed by the respondent under section 95, but in this case the respondent admits that it dismissed the claimant (within section 95(1)(a) of the 1996 Act) on 31 May 2021.
34. Section 98 of the 1996 Act deals with the fairness of dismissals. There are two stages within section 98. First, the employer must show that it had a potentially fair reason for the dismissal within section 98(2). Second, if the respondent shows that it had a potentially fair reason for the dismissal, the Tribunal must consider, without there being any burden of proof on either party, whether the respondent acted fairly or unfairly in dismissing for that reason.
35. Section 98(4) then deals with fairness generally and provides that the determination of the question whether the dismissal was fair or unfair, having regard to the reason shown by the employer, shall depend on whether in the circumstances (including the size and administrative resources of the employer's

undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee; and shall be determined in accordance with equity and the substantial merits of the case.

36. In a case of dismissal for redundancy this involves a consideration of the redundancy process and specifically whether there was a fair process involving (i) warning and consultation (ii) a fair basis for selection, (iii) consideration of alternative employment and (iv) an opportunity to appeal (Polkey v A E Dayton Services [1987] IRLR 503). On appeal in that case Lord Bridge said that 'the employer will not normally act reasonably unless he warns and consults any employees affected or their representative, adopts a fair basis on which to select for redundancy and takes such steps as may be reasonable to avoid or minimise redundancy by deployment within its own organisation.'
37. In Williams and ors v Compare Maxam Ltd 1982 ICR 156, EAT the Appeal Tribunal set out 5 principles that employers should act in accordance with, namely, i) early warning ii) consultation with union iii) fair selection criteria iv) fair selection in accordance with criteria and v) consideration of alternative employment.

Disability

38. Section 6 Equality Act 2010 states:

A person (P) has a disability if—

- (a) P has a physical or mental impairment, and*
- (b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities...*

39. Section 212 Equality Act 2010 defines "substantial" as being more than minor or trivial.

40. Paragraph 5 of Schedule 1 to the Equality Act 2010:

- (1) An impairment is to be treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities if:*
 - (a) measures are being taken to correct it, and*
 - (b) but for that, it would be likely to have that effect.*
- (2) 'Measures' includes, in particular, medical treatment and the use of a prosthesis or other aid.*

Direct Discrimination

41. Section 136(2) Equality Act 2010 provides that if there are facts from which the court or tribunal could decide, in the absence of any other explanation, that a person (A) contravened a provision of the EqA, the court must hold that the contravention occurred; and S.136(3) provides that S.136(2) does not apply if A shows that he or she did not contravene the relevant provision.
42. We have taken into account the well-known guidance given by the Court of Appeal in Igen Ltd v Wong [2005] ICR 931 which although concerned with predecessor legislation remains good law. It was approved by the Supreme Court in Hewage v Grampian Health Board [2012] ICR 1054. Ayodele v Citylink Ltd [2018] ICR 748, CA confirmed that differences in the wording of the Equality Act 2010 have not changed the test or undermined the guidance in Igen Ltd.
43. In the case of Igen, the Court of Appeal established that the correct approach for an employment tribunal to take to the burden of proof entails a two-stage analysis. At the first stage, the claimant has to prove facts from which the tribunal could infer that discrimination has taken place (on the balance of probabilities). If so proven, the second stage is engaged, whereby the burden then 'shifts' to the respondent to prove on the balance of probabilities, that the treatment in question was 'in no sense whatsoever' on the protected ground. The consequence is that the claimant will necessarily succeed unless the respondent can discharge the burden of proof at the second stage. However, if the claimant fails to prove a "prima facie" case in the first place then there is nothing for the respondent to address and nothing for the Tribunal to assess Ayodele and Hewage.
44. At the first stage of the test, when determining whether the burden of proof has shifted to the respondent, the question for the Tribunal is not whether, on the basis of the facts found, it would determine that there has been discrimination, but rather whether it could properly do so.
45. The following principles can be derived from Igen Ltd v Wong (above), Laing v Manchester City Council [2006] ICR 1519 EAT, Madarassy v Nomura International p/c [2007] ICR 867, and Ayodele v City link Ltd (above); which reviewed and analysed many other authorities.
46. At the first stage a Tribunal should consider all the evidence, from whatever source it has come. It is not confined to the evidence adduced by the claimant, and it may also properly take into account evidence adduced by the respondent when deciding whether the claimant has established a prima facie case. A respondent may, for example, adduce evidence that the allegedly discriminatory acts did not occur at all, or that they did not amount to less favourable treatment, in which case the Tribunal is entitled to have regard to that evidence.

47. It is insufficient to pass the burden of proof to the respondent for the claimant to prove no more than the relevant protected characteristic and a difference in treatment. That would only indicate the possibility of discrimination and a mere possibility is not enough. Something more is required, see Madarassy (above).
48. The burden of proof provisions require careful attention where there is room for doubt as to the facts necessary to establish discrimination, but have nothing to offer where the tribunal is in a position to make positive findings on the evidence one way or another. (Hewage v Grampian Health Board [2012] IRLR 870, SC.)
49. The prohibition on discrimination against employees is found in section 39(2) Equality Act 2010. Employers must not discriminate:
- 51.1. in the terms of employment;
 - 51.2. in the provision of opportunities for promotion, training, or other benefits;
 - 51.3. by dismissing the employee;
 - 51.4. by subjecting the employee to any other detriment.

50. Section 13 Equality Act 2010 states:

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.

Harassment

51. Section 26 Equality Act 2010 states:

- (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 in subsection (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.*

Victimisation

49. Section 27 states:

- (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.

52. If it is established that (a) the employee did a protected act and (b) the employer subjected the employee to a detriment, the critical question will be: Why did the employer subject the employee to that detriment? Was it because they had done (or might do) the protected act? Or was it wholly for other reasons? (Chief Constable of West Yorkshire Police v. Khan [2001] ICR 1065)

53. The tribunal must look at the alleged detriment from the employee's point of view. Did the employee reasonably understand that they had been disadvantaged? This is a low threshold, but it nonetheless needs to be crossed. An unjustified sense of grievance is not sufficient: Shamoon v Royal Ulster Constabulary [2003] UKHL 11.

Fact finding and conclusions

54. Given the number of allegations in this claim the Tribunal has approached matters by reference to the list of issues. As such we set out some general background information and then go on to make our findings of fact relevant to each issue and our conclusions within the same subheading.

55. We address each complaint with reference to the list of issues above and as appearing at page 118 of the respondent's bundle and adopt the same numbering.

Background

56. The claimant was employed by the respondent as a Parking Appeals Officer from 25 March 2019 until 31 May 2021. His original contract was a fixed term contract for a period of 18 months and due to expire in September 2020. That was extended at page 253 (RB) to December 2020. It was extended again on 23 December to

31 March 2021 and that can be seen at page 1131 (RB). There was a further extension to 31 May 2021 as set out at page 1134 (RB).

57. The claimant was employed in the Parking Enforcement Team. Mr Abbas was recruited to the temporary role which arose as a result of increased workload from a bus lane enforcement pilot scheme launched in the borough. After Mr Abbas commenced employment, two other bus lane appeal officers were recruited namely Kiran Singh and Jaskiran Sohal.
58. The parking team consisted of three members of staff on fixed term contracts and five members of staff on permanent contracts. Melissa Ashby was the claimant's line manager, and she reported to Mrs Kam Hothi together with two other managers namely Gurdip Bahia and Manjinder Jutla.
59. At the relevant time Mrs Kam Hothi was the Network Lead for Parking Enforcement and Development. Her role included management of the claimant's team (the parking team) together with two others namely the permits team and the highways team. She reported at that time to Mr Savio De Cruz.
60. On 15 May 2020 the claimant was signed off of work due to sickness with the reason stated being stress at work. On 1 June 2020 the claimant submitted a grievance about the conduct of Melissa Ashby and Kam Hothi (page 228 RB).
61. This was investigated by Mr David Maycock who issues his investigation report on 7 September 2020 at page 255 (RB). The claimant filed an appeal against that investigation and the outcome of that appeal was provided on 25 November 2020 at page 380 (RB). This was carried out by Mr Ketan Ghandi, associate director.

General observations

62. In the course of our conclusions, we make general observations in relation to the claimant's credibility and rely on the same observations when resolving disputes between respective witness accounts. These are as follows:
 - a. Firstly, we generally found the claimant to be somewhat evasive over what we consider were straightforward questions that were put to him. For example, the claimant's own ET1 claim form was put to him and he was asked whether or not he accepted that that was submitted on 4 February 2021. He was shown that at page 12 of the respondent's bundle but he refused to accept that was the date it was submitted. This is in circumstances where there is clearly a date stamp on that page by the Watford Employment Tribunal indicating its submission on that date.
 - b. There was also evasiveness, around questions that he was asked about a workplace assessment regarding a different chair. These were not issues that the Tribunal were concerned with, yet the claimant sought to dispute that there was a workplace assessment with reference to the wording being used by the respondent's representative. The claimant ultimately accepted that there was an assessment about a chair and the Tribunal's assessment is that the

claimant was deliberately evasive and argumentative over a straightforward question.

- c. There was also an issue that arose in relation to an Occupational Health consent form where the claimant in cross examination accepted that he had filled out such a form. That was in line with his own grievance, at page 238 (RB), where the claimant accepted 'I did fill up a form during the week'. The following hearing day we moved to re-examination of the claimant (by way of self re-examination) and he indicated that he now, some six years on, and despite giving an indication that his medication is such that it can impact his memory, indicated that he recalls that he in fact did not ever receive that form, it was not received by him in the post and he took our attention to the fact that that form was not signed. We conclude that the claimant's account that was given at page 238 (RB) by him in his own grievance, was clearly the correct one (and address our findings on this later on in this Judgment) which calls into question the subsequent position that was then adopted by him.
- d. It was also put to Ms Hothi that when he could not join an online meeting that occurred in April 2020, he was unable to join and said that nobody offered him any support in relation to that. Ms Anna Bochniak was called and by way of supplemental questions gave evidence to indicate that she had, in fact, reached out to the claimant in relation to that meeting. It subsequently came to light that within the claimant's own bundle at page 163 he had adduced evidence in which Anna offers support to him in relation to the joining of that meeting. That clearly contradicts the position that he put to the witness Ms Hothi, that he was not afforded any support and one which he would have been aware of given it was within his own bundle.
- e. We also make an observation in respect of the email that was sent to Tobias White by Ms Hothi at page 219 (RB) which is relevant to the submission of flexi timesheets and relates to issue 4.2.14 addressed further below. In closing submissions, the claimant alleged that that email had been fabricated. That is the first time that he had made the allegation that it had been fabricated; he did not raise it in his witness statement; he did not raise it during the course of the litigation and neither did he put that position to any of the witnesses. We conclude that email is not fabricated. We can see the full chain in relation to it at page 219 to include the response from Mr White. We conclude that the allegation of fabrication was made late in proceedings in an attempt to bolster the claimant's case.
- f. We also make this final observation in relation to the claimant's credibility, and that is that the claimant has indicated that his memory is affected by the medication that he takes for his epilepsy. We were not taken to any medical evidence adduced by the claimant that would support that his medication affects his memory. That being said we acknowledge that every witness's recollection is likely to be impacted

given the lapse of time since events that were some 6 years ago now. The position the claimant adopts however is that on the one hand, the claimant wants us to accept that 6 years on he can specifically recall not receiving the letter from occupational health (despite his account at the time indicating that he did receive it) and, on the other hand, seeks to rely on issues regarding his memory as to why he cannot give a specific answer or take us to a document. The claimant cannot have it both ways.

63. By contrast we found all of the respondent witnesses to be straightforward. They made appropriate concessions where necessary and were clear when they could not recall specific details. They came to the Tribunal as witnesses who sought to do all that they could to assist the Tribunal in resolving the matters before it.
64. As part of the documentary evidence, there is reference to the practice of unfair recruitment. There is no separate complaint before this tribunal in relation to unfair recruitment and we make no findings on the same in those circumstances.
65. We will make the observation however that where we found allegations were proven factually, we did consider this in terms of the balance of proof provisions and whether it went to the claimant proving facts from which we could conclude discrimination because the suggestion was that Ms Hothi preferred those of Sikh religion in her recruitment practises. We note however, in that regard, the findings as a result of the grievance were a perception of Ms Hothi favouring Sikhs not a finding that she did. There were no actual findings against her that she did prefer, or have a practice of preferential treatment towards, certain communities by way of recruitment. That was following a lengthy grievance process and also following a separate investigation by Sally Kitson, which is outlined at page 387 and which specifically looked at the issue in relation to recruitment practises. That was not separately tried as an issue, and, therefore, we have concluded in those circumstances that it takes us no further.
66. In this case we have in mind the burden of proof provisions and the risk of unconscious bias in discrimination complaints. However, applying Hewage v Grampian Health Board [2012] IRLR 870, SC above we have been able to make positive findings on the evidence in this case that lead us to our conclusions.
67. We now go on to address each issue in turn.

Issue 3 – Disability

68. Mr Abbas brings a complaint of discrimination on the grounds of disability. The first thing he must prove is whether or not he was disabled within the meaning of Section 6 of the Equality Act outlined above.
69. The first question in that regard that we need to look at is whether or not the claimant had a physical or mental impairment and, in this case, the claimant relies on epilepsy. We can see that diagnosis at page 157 of the respondent's bundle. That is a letter from December 2012 and records that the claimant had his first seizure in relation to the condition in 2009. Within that medical evidence produced we can see admissions to hospital in September 2012 and also

October 2012.

70. We also note within the claimant's bundle at page 192, there is a letter from a consultant that is dated 10 March 2022. That is 10 months after the period we are concerned with because these events run between 2019 and 2021 but that does record that the claimant is currently on medication related to his condition of epilepsy.
71. We also note within the respondent's bundle at page 150, the claimant's disability impact statement he confirms that he has been on epilepsy medication since 2010. He indicates that if he misses doses of his medication, that causes him to have seizures. He also goes on in that same document to indicate that he has previously attempted to take a lower dose of the medication but has had to return to the full dose.
72. We do conclude that that position is supported, albeit it is dated October 2012, by the document at page 151 of the respondents bundle where it records that his seizure that occurred in relation to that admission may have been due to a missed dose of medication.
73. The respondent did not challenge the claimant on the points raised at page 150 of the respondents bundle in relation to the effects of his medication. On the evidence and in those circumstances, we are satisfied that but for that medication that is treating his epilepsy, the condition would have a substantial adverse effect on his day to day activities, namely he would have seizures. We are satisfied that that is a long-term condition, it has been ongoing since 2012 at least, but a first seizure recorded back as far as 2009.
74. In those circumstances, we conclude that the claimant was disabled within the meaning of Section 6 of the Equality Act.

Issue 4 - Direct Discrimination (race, religion and disability)

75. The claimant brings a complaint of direct discrimination on the grounds of his race, religion and/or disability. The relevant protected characteristic relied upon is identified next to each allegation of unfavourable treatment
76. The claimant describes his race as Pakistani and of his religion as Muslim.

Issue 4.2.1 between April 2019 and September 2020, Ms Hothi failing to offer the Claimant appreciation for his work [race and religion];

77. The Tribunal notes that there is nothing in the claimant's witness statement in relation to this allegation. We do note that it is in the grievance at page 233 (RB) and we note the claimant's own position in relation to that at that time was that 'it is not her obligation to appreciate me'.
78. He also attributes that conduct within that grievance as being related to his sex because, he says, that Ms Hothi compliments women and not men and so there is nothing in the grievance which suggests that it was related to race or religion.
79. The Tribunal also notes that Ms Hothi is the second line manager to the claimant

and the day to day management of the claimant was carried out by Melissa Ashby. There is no obligation in those circumstances for Ms Hothi to provide appreciation and, indeed, we consider that there would not be any obligation on the direct line manager to provide appreciation either.

80. Even if Ms Hothi were a direct line manager, in absence of a reason why praise was or would be appropriate, we conclude that there could be no less favourable treatment. That complaint therefore fails for those reasons.

Issue 4.2.2 in summer 2019, Ms Hothi telling the Claimant not to come to her unless it is urgent [race & religion];

81. The claimant has not adduced any evidence in relation to this allegation either by way of his witness statement or by way of the contemporaneous documents in the bundle.
82. We would also make the observation that even if it were said, we note that she is the second line manager to the claimant and consider that it would not be unusual for the second line manager to give that indication in circumstances where the claimant could go to his direct line manager.
83. The claimant has not adduced any evidence that this occurred. There is also no evidence from which we could infer that if it did occur it was because of his race or religion. As such, that complaint fails.

Issue 4.2.3 in summer 2019, Ms Hothi being told of the Claimant's application for the vacant position of Network Officer [race & religion];

84. Again, this allegation is not identified in the claimants witness statement. The Tribunal does note it is in his grievance at page 230 (RB) but he does not link that to his race or religion but rather the issue that he takes with it is that it was a breach of confidentiality.
85. We note that Ms Hothi gives her explanation in relation to that as part of the grievance investigation that was carried out by David Maycock and we can see that explanation at page 286 (RB). She states the claimant had informed her himself that he was thinking of applying and had asked Ms Hothi for her opinion. She said in reply she had been honest and said she did not think the post would be right for the claimant. The claimant did not challenge that position either by way of cross examination of Ms Hothi or by suggesting a different version of events in his own evidence.
86. The claimant does not say who it was that told Ms Hothi of the application and why he says this related to his race or religion. The Tribunal does consider that even if Ms Hothi was aware of the application, this would not be unusual given her role not only as the claimant's second line manager but also as the overall manager for his team and two others.
87. In those circumstances, the reason she was aware of the application was either because the claimant had told her he was thinking about applying (in line with her evidence that was not challenged) or given her role as team manager. No

evidence is adduced from which we could infer it was because of the claimant's race or religion.

88. We conclude in those circumstances that her knowing or being told of the claimant's application for Network Officer is not less favourable treatment and there is no evidence before us that this was because of race or religion. That complaint therefore fails for those reasons.

Issue 4.2.4 in July 2019, Ms Hothi saying to the Claimant that he took steroids [race]:

89. There is a dispute between the two parties in relation to this allegation factually. The claimant states that Kam Hothi accused him of taking steroids. Ms Hothi says there was a conversation around bodybuilding in which steroids were spoken about and that was by way of introduction of the topic by the claimant.
90. We note that the grievance investigation deals with that at page 274 (RB) and we note that an anonymous witness was spoken to at that time and would support what the claimant says. We do make the observation however that that individual did not attend as a witness for the claimant; we do not have a separate witness statement from that person neither did they attend the Tribunal. We do also note that the account that anonymous witness provides at the time referred to that conversation as having lasted for approximately 30 minutes which the Tribunal would find implausible on both parties' accounts of what happened and also in an office environment where there were ongoing work duties.
91. We do note that that complaint was partially upheld by the investigator, David Maycock, but that was on the basis that he found that there was a conversation around steroids which he found inappropriate in an office environment and he upheld it on that basis. There was not a finding by that investigator that Kam Hothi had *accused* the claimant of taking steroids. In any event, the Tribunal process is a separate process to the grievance.
92. In resolving the dispute between the parties, we accept the evidence of Ms Hothi as outlined at her witness statement in paragraph 22, namely that there was a conversation between the parties where the claimant introduced the topic of steroids.
93. Whilst we acknowledge the grievance investigation outcome and the anonymous witness account given at that time, the witness evidence before the Tribunal is limited to that of the claimant and Ms Hothi on this issue. The dispute concerns each party's recollection of that verbal conversation and have one person's recollection against the other persons. We prefer the evidence of Kam Hothi because of the general observations that we make in relation to the claimant's credibility above.
94. We also note that the claimant made no complaint about this at the time. The grievance was not raised until 11 months after that alleged incident is said to have occurred. There is no evidence that a separate complaint was made or that he approached her to indicate that he was offended by the comment. We conclude, that would support the conclusion that it was a discussion around steroids rather than an accusation by Ms Hothi that the claimant took steroids

because had it been the claimant would have raised some complaint prior to his grievance.

95. That complaint therefore fails because it does not occur in the circumstances that the claimant says that it occurred.
96. We do however make the observation that even if it was Ms Hothi that said to the claimant that he took steroids there is nothing from which we could infer this was because of the claimant's race. On the claimant's account it was because he is a bodybuilder and said he had a headache and there is nothing to suggest that Ms Hothi would not have said this to someone of a different race in the same circumstances as the claimant.

Issue 4.2.5 in July 2019 (about a week after the steroids comment) Ms Hothi telling people not to talk to the Claimant because he might punch them [race & religion]:

97. This complaint is not in the claimant's witness statement. The allegation was also not put to Ms Hothi by way of cross examination.
98. We do note that it was at page 235 (RB) within his grievance. The list of issues sets that out as having occurred in July 2019. The grievance written on 1 June 2020, refers to that incident having taken place at the start of the year which would date the alleged incident to be in 2020. In cross examination, the claimant confirmed that the grievance was therefore wrong and that the list of issues was correct. As such the Tribunal is in difficulty in relying on the evidence in the grievance on this point because the claimant has said it is incorrect.
99. We conclude that the complaint must fail because the claimant has not adduced evidence to support the allegation occurred.

Issue 4.2.6 between July and August 2019, Ms Hothi allocated her official duties (i.e. delegated important tasks) to others but not the Claimant [race & religion]:

100. Again, this allegation is not in the claimant's witness statement. He does not take us to any particular task that he says should have been delegated to him but was delegated to others.
101. We note that Ms Hothi in her statement at paragraph 3 sets out her management of the various teams. She indicates that she is responsible for three teams each of which have a direct line manager. We conclude it would not be unusual therefore in those circumstances for Ms Hothi to delegate tasks and so factually it is likely that Ms Hothi delegated tasks.
102. There is a reference in the grievance at page 233 (RB) to allocating official duties to others, but the complaint made is that she allocates them to women. There is also a reference at page 239 (RB) to the delegation of tasks to certain team members, but again, the claimant puts that down to that being because those individuals are women and does not, even in his own grievance, relates it to race or religion.

103. As such there is no evidence before us of what tasks the claimant says should have been delegated to him and were not, and if tasks were delegated to others, there is no evidence adduced from which we could infer it was because of the claimant's race or religion.

Issue 4.2.7 in August and October 2019, being required to explain why he wanted to leave work early, when he had flexi time credit [race & religion];

104. Again, there is no evidence within the claimant's witness statement as to the two occasions that this occurred.
105. There is a reference to it in the claimant's grievance we note at page 231 (RB), but the claimant appears to offer an explanation himself as to why he may be asked about an early finish, namely to ensure there is enough staff to cover the operational needs of the business.
106. The claimant has not addressed evidentially who it was that he says asked him to explain why he wanted to leave. We do not know if that was Ms Hothi, Ms Ashby or some other. We are not taken to that by way of witness statement. Nor are we taken to any email or text exchange in relation to that allegation.
107. The only evidence the Tribunal did have before us was that of Ms Ashby who gives one example in her witness statement in relation to a request by the claimant to leaving early, and that is at paragraph 16. Her account in the statement is supported by page 193 (RB) being the text exchange between her and the claimant about the request. We can see from that exchange that the claimant requested to go early, and Ms Ashby grants it without question. We also note that within that message, Ms Ashby does not ask the claimant why he was leaving but the claimant volunteers that information himself indicating that it is to view a property.
108. There is nothing on the evidence therefore to suggest that the claimant was asked to explain why he wanted to leave work early despite flexitime and the complaint fails on that basis because we conclude it did not occur.

Issue 4.2.8 in September 2019, Ms Hothi stating "even when I am not in the office I always know in my absence that what is happening in office including any activity taking place by an individual" [race];

109. That again is not addressed within the claimant's witness statement. We do note that it is contained in his grievance at page 230 (RB). Ms Hothi was cross examined on the issue and denied the allegation.
110. Where there is a dispute of facts, for the reasons already outline regarding the claimant's credibility, we prefer Ms Hothi's evidence. Therefore, we conclude that Ms Hothi did not say these words to the claimant.
111. We also make the observation that Ms Hothi had overall management responsibility for three teams and we can understand why, in those circumstances, she would indeed know what is happening in the office in her absence. It is in line with her role and there is nothing untoward about that. That

in turn supports that if the comment was made it was due to her role as line manager and not because of the claimant's race.

Issue 4.2.9 in September 2019, Ms Hothi saying "it is not my level I deal with your work, wait until Melissa will be back" [race and religion];

112. Again, this allegation is not in the claimant's witness statement. The Tribunal notes it is referred to in his grievance at page 231 (RB). It was put to Ms Hothi in cross examination and again she denied saying the same.
113. In circumstances where there are disputed facts as to an oral comment, even taking the account given in the claimant's grievance about what happened, we prefer the evidence of Ms Hothi for the reasons that we have already given in relation to the claimant's credibility on other matters.
114. We conclude this was not said and the complaint fails because we find it did not occur.

Issue 4.2.10 in October 2019, Ms Hothi said she did not know of the Claimant's disability, when this was untrue [disability, race and religion];

115. We note in that regard that at page 208 (RB) there is an Occupational Health referral report which is dated 6 February 2020 and refers to the claimant's epilepsy. We note that that report is triggered as a result of a Stage 1 review which takes place in November 2019 and which we can see at page 203 (RB).
116. Page 203 refers to three sickness absences of the claimant, none of which are said to be epilepsy. However, we do note that the letter at page 204 (RB) that records the outcome of that meeting does refer to a discussion around the claimant's epilepsy and that is why Ms Ashby refers him to Occupational Health at that time.
117. We do note that as part of the claimant's application for the role he completes a declaration of health form when he started. That is at page 176 (RB) and that does not declare any need for reasonable adjustments nor declare his epilepsy.
118. We were taken to the claimant's application for the position which is at page 610 (RB). We do note that at page 614 (RB) he answered "Yes" to having a disability which entitles him to qualify under the Guaranteed Interview Scheme but we note that that does not set out the details of his disability, namely he is not asked to specify his condition of epilepsy.
119. We can see and were taken by the claimant to a subsequent application for an internal role, which appears at page 603 of the respondent's bundle. At page 609 (RB) we can see that there is an Equal Opportunities Monitoring Form attached to that application. That contains a heading disability and then says 'please select a response'. The text selected reads 'You have a disability that cannot be seen, for example diabetes, epilepsy or a heart condition'. The claimant says that that is missing from his original application and is evidence that he disclosed his epilepsy.

120. The Tribunal concludes that even if that form was completed as part of his original application and is missing from the bundle, we can see that the section on disability is clearly selected from a drop down or selectable option because firstly it asks the applicant to 'select one response' indicating that there are several to choose from. Secondly it refers to "You have a disability that cannot be seen' and whilst it goes on to refer to epilepsy that reference is amongst other conditions. The claimant does not suggest he had diabetes or a heart condition which also form part of this selected response. Therefore, it is not setting out the specific condition as it relates to the claimant.
121. In any event, Ms Hothi was not part of the claimant's recruitment process and there was nothing to suggest that she saw those application forms.
122. The claimant did take us to the point that Ms Hothi and Ms Ashby had weekly meetings and Ms Hothi accepted that that included discussions around sickness and absence. However, in that regard, we note that the claimant did not ever have time off due to his disability, namely his epilepsy, it was other conditions that caused him to take sickness leave and they are set out at page 203 (RB) and later at page 227 (RB). Therefore, even if the claimant's sickness absence was discussed, it does not mean knowledge of the claimant's disability by Ms Hothi.
123. Ms Ashby's evidence was that she was aware of the claimant's disability from the Stage 1 process which was triggered on 19 November 2019. The allegation that the claimant makes here at 4.2.10 pre-dates that; it is October 2019.
124. On the evidence therefore, we conclude that Ms Hothi did not know about the claimant's disability in 2019. As such if any comment was made in October 2019 to this effect, it was not untrue; she did not know. For that reason, this would not amount to less favourable because of race, religion and/or disability in circumstances where on our findings she was simply stating a matter of fact, namely she was not aware of the claimant's disability.

Issue 4.2.11 in November 2019, Ms Hothi and Ms Ashby decided they did not want the Claimant in the team [race & religion]:

125. That was not addressed in the claimant's witness statement nor was it put to either witness. The claimant does not say how or why he says this decision had been reached.
126. We do note the references within the claimant's grievance at page 233 and 239 (RB) which we have already referred to. We do not know whether that is the same allegation as referred to here but there is reference to favouring others. However as already observed the claimant is linking that to those individuals being women and not linking it to his race or religion.
127. We do also consider that it seems implausible that there had been a decision by Ms Hothi and Ms Ashby in November 2019 that they did not want him on the team in circumstances where his contract was subsequently extended on two further occasions. His original contract was a fixed term contract for a period of 18 months. That was extended at page 253 (RB) to December 2020. It was

extended again on 23 December to 31 March 2021 and that can be seen at page 1131 (RB). Then we can see a further extension to 31 May 2021 as set out at page 1134 (RB).

128. In those circumstances, we conclude that there was no decision that they did not want the claimant in the team and the complaint fails because it did not occur.

Issue 4.2.12 In April 2020, Ms Hothi forcing the Claimant to go into the office when Covid was at its peak [disability, race and religion];

129. The list of issues refers to this allegation as forcing the claimant to go into the office, however the claimant accepts that he did not actually attend the office during that covid period. That is confirmed by Ms Hothi in paragraph 14 of her witness statement where she indicates that the claimant was not included in the staff rota because he was shielding.
130. In relation to this allegation the tribunal notes page 212 (RB). That is an email from Ms Hothi dated 18 March 2020 and that is an email that goes to all staff and applies to all. That does make reference to "Your team will come in as and when to print their letters and deal with any post." The claimant's grievance in relation to this matter sets out the allegation at page 233 (RB). The complaint there is that Ms Hothi forced the claimant to book a slot to go into the office and that is covered in his witness statement at point 5.
131. The Tribunal understands that complaint to be, being told to book a slot. Ultimately, however the claimant did not book a slot to attend the office. The email at page 212 (RB) is not directed solely to him to attend; it is a teamwide/office email that applies to all. As such we conclude there is no direct evidence of the claimant being told to book a slot to go into the office but rather the only evidence is one which went to all and set out the general procedure that would apply. In those circumstances, there was no difference in treatment to him compared to all others within the team.
132. We note that there is no evidence that any specific request was made directly of him to say that he had to come in and, as is demonstrated at page 212, that is an email that applied to all. Ultimately the claimant then does not attend the office, it appearing there was recognition that the claimant was shielding. David Maycock's investigation and the evidence of the claimant and Ms Hothi, all confirm that the claimant did not actually attend the office.
133. Further we would note that the claimant has not adduced any evidence, namely by way of government list on covid vulnerabilities that he was particularly vulnerable during this time due to his condition of epilepsy, such that being told to book a slot to go into the office would have caused him particular difficulty or risk to him in any event.
134. There is also no evidence before the tribunal of the claimant raising this as an issue at the time, which he agreed to during the course of his cross examination. The claimant also accepted during cross examination that it was possible that Ms Ashby had indicated that you would not need to go in if you were high risk and, ultimately, that is what happened. The claimant did not go in.

135. As such, for those reasons, that complaint fails.

Issue 4.2.13 In April 2020, Ms Hothi failing to acknowledge the risk of Claimant suffering a seizure or blackout, when she knew about it because he had informed her several times [disability, race and religion];

136. This allegation is not addressed in the witness statement nor was it specifically put to Ms Hothi. The claimant does not take us to any documentary evidence where he says he informed her of a risk and she did not acknowledge it.

137. We do note it is in his grievance at page 233 (RB) but, in that context, it is raised as part of lone working and a risk of being in the office if he is on his own. In that regard as discussed above the claimant was not required to go into the office. This would support the conclusion that there was no failure to acknowledge the risk because it is addressed by Ms Hothi who understood the claimant was shielding and the claimant accepts he did not have to go into the office.

138. In the circumstances, that complaint fails because we conclude it did not happen.

Issue 4.2.14 an email of 13 May 2020, which stated the Claimant had not updated his Flex timesheets [race & religion];

139. There is no dispute that this did occur. We can see the email within the claimant's grievance at page 229 (RB) being an email from Ms Hothi to the claimant which reads:

As per my Covid responsibilities to all my teams, I have been checking everyone timesheets today and have noticed once again you have not kept this up to date, there is no reason why this cannot be done on a daily basis or at least every other day. I require you to take notice of my email and to be clear this is a direct instruction and must be completed as per instruction.

140. That forms part of the claimant's grievance and we understand he has copied and pasted the email that was sent to him by Ms Hothi. We were not separately taken to the email, but it is not disputed by the respondent that such an email was sent.

141. We note that in that context, page 206 (RB) sets out the policy on flexitime and says that "Flexi timesheets must be updated at least every other day where possible." Those timesheets are required as part of the process in relation to flexi time.

142. We can also see at page 218 (RB) an email that is sent to all team members on 27 April 2020 regarding flexitime. It highlights that, because of the covid pandemic, there has been a reduction in work and Ms Hothi is indicating it will be difficult for her to authorise flexi time without evidence that additional work is required. Again, there is reference to the importance of those flexi timesheets in that context.

143. Page 219 (RB) is an email that Ms Hothi sends to Tobias White. Mr White is another member of the same team as the claimant. The content of that email is the exact same wording that was sent to Mr Abbas and which we can see at

page 229.

144. The claimant did not know this individual's religion, but he did confirm that this individual is not of the same race as him, and that individual, is sent the exact same email as Mr Abbas. This would support the conclusion that there has been no less favourable treatment between the two employees.
145. It was this email that we refer to above in relation to the claimant's credibility and that in closing submissions the claimant said this email must have been fabricated. We have already made the observations that that was not an allegation made at any point prior either in his witness statement nor was it put to any witness by way of cross examination. We can also see from that email that is part of the full chain. We can see Mr White's reply to that and there is nothing to suggest that the document is fabricated.
146. At page 229 (RB) of the grievance, the claimant calls this email "unprofessional" and "provocative". He goes on at page 230 to say that "Her bullying tone can be easily assessed from the email above" and says, "She would be shouting and raising her fingers in person".
147. We conclude that that email is not bullying nor unprofessional. It is a management instruction to follow the process around flexitime and that process is documented within the evidence before the Tribunal. That position is supported by Mr White who, in his reply, acknowledges that it was his mistake for not following that process.
148. As such, in the circumstances, we conclude that there is no less favourable treatment. The exact same email was sent to another individual and there is nothing in those circumstances to suggest that it was because of the claimant's race or religion.

Issue 4.2.15 on 15 May 2020, Ms Hothi threatening the Claimant with a sickness review meeting [race]:

149. The claimant does not adduce any evidence of Ms Hothi threatening him with a sickness review meeting either by way of his witness statement or documentary evidence.
150. We note from separate medical evidence that the claimant was in fact assessed by his GP on that same day, which can be seen at page 221 (RB) and subsequently then signs the claimant off until 14 June 2020. The claimant does not suggest he had any contact with Ms Hothi that day after that sick note and, in those circumstances, we conclude that this allegation did not occur because there is no evidence to suggest any contact between the claimant as Ms Hothi on that date.
151. As such the complaint fails.

Issue 4.2.16 on 18 May 2020, Ms Ashby saying "whatever you will write, at the end it will come to me as I am your line manager, therefore, if you tell me or not it will still come to me" [race]:

152. This is with reference to a telephone call that is said to take place between the claimant and Ms Ashby following receipt of the sick note at page 221 (RB).
153. There is a dispute between the parties in relation to the date of this telephone call. The claimant says it was 18 May 2020; Ms Ashby says it was 21 May 2020. We note that the date is recorded in the claimant's grievance at page 235 (RB), as 18 May 2020 and he makes that grievance (1 June 2020) shortly after that telephone call clearly while his recollection was still fresh.
154. At page 209 (RB), Ms Ashby's investigation meeting in relation to the grievance sets out the telephone call as having occurred on 21 May 2020. That interview was a few weeks thereafter having taken place on 15 June 2020. In those circumstances we conclude that it was likely fresher in the memory of the claimant at the time his grievance was made compared to when Ms Ashby was interviewed a few weeks later in relation to the matter.
155. The tribunal also notes that Ms Ashby's witness statement is silent on the date of this telephone call. Therefore, we prefer the evidence of the claimant on this point, and we conclude that that telephone call took place on 18 May 2020. Those findings are relevant to the complaint of victimisation that we will address later on in our reasons.
156. In cross examination Ms Ashby accepted that there was a conversation during that telephone call during which she encouraged the claimant to disclose the person whom he indicated he was putting a grievance in against so that she could make adjustments where possible in terms of the working arrangements and, ultimately, avoid the claimant having to deal with that individual. On balance, therefore, we conclude that Ms Ashby did say words to that effect.
157. However, there is nothing adduced by the claimant from which we could infer that it was because of the claimant's race. He did not put to Ms Ashby that she said it due to his race, nor did he challenge her explanation that it was to make adjustments where possible in relation to working arrangements. As such the complaint fails. We would add that Ms Ashby's explanation was clear as to the reason why she asked for this information and that was wholly unrelated to the claimant's race. The complaint therefore fails on that basis.

Issue 4.2.17 4.2.17 in May 2020, Ms Ashby not listening to the Claimant and taking Ms Hothi's side [race]:

158. This is a generalised statement and is not included in the witness statement. We were not taken to any specifics, and the claimant accepted in cross examination that, indeed, there was nothing in his witness statement to suggest that anything done by Ms Ashby or Ms Hothi was done because of race or religion.
159. That complaint fails on the basis that it is simply not proven as having occurred.

Issue 4.2.18 on 22 May 2020, the Claimant being subject to a stage 1 review meeting [race, religion and disability]

160. It is not in dispute that the claimant had a Stage 1 review meeting on 16

December 2019 which is set out at page 204 of the respondent's bundle.

161. The relevant sickness policy is at page 917 (RB) and the triggers are set out at clause 13.2 in that regard which says:

The Council uses absence triggers to manage and analyse occurrences of sickness absence to provide an indication of when a manager needs to be concerned by absence rates and take appropriate action.

The following triggers are used:

- 6 or more days of sickness absence in the previous six months
- 3 separate periods of absence in the previous six months

162. The criteria for formal action is then set out at page 920 (RB) within clause 19.2 which states:

An Absence Meeting will be required in cases of;

- where sickness absence triggers have been activated and informal action has not resulted in the required improvement
- long term absence (28 days or more) where a return to work date has not been identified with a return to work plan in place.

163. This complaint concerns the second Stage 1 review which took place on 22 May 2020. Again, it is not in dispute that this process took place. We can see the invitation to that meeting at page 227 (RB), that is dated 22 May 2020. That sets out three absences in the last three months. We note in that regard that none of those are said to be the claimant's condition of epilepsy which is a condition relied on for the purposes of disability in these proceedings.

164. The claimant did not dispute that he had the sickness absences set out in that letter at page 227. As such the claimant had therefore triggered the sickness policy as detailed above such for him to be subjected to the stage 1 review. He had had three absences in the last six months and, indeed, as per the sick note at page 221 (RB) he had an absence of longer than 28 days so had triggered the next stage in relation to the process.

165. In the grievance, the claimant suggests that he should not have been subject to this policy because of his disability, but we note in that regard that that policy applies to those with disabilities subject to the duty to make reasonable adjustments. In this case, the claimant had not suggested that he needed any reasonable adjustments and, the reason stated on his sick note was not because of his disability, but an entirely different condition namely stress at work.

166. We conclude, in those circumstances, there was no less favourable treatment. The claimant was subjected to the stage 1 review meeting in line with the sickness policy. There is nothing to suggest that anyone else in the same circumstances as the claimant, namely having had three absences in the last 6 months, would have subjected to different treatment. That policy would apply to anyone in the claimant's circumstances regardless of any protected

characteristic and, therefore, there is no less favourable treatment. The complaint therefore fails.

Issue 4.2.19 on 27 May 2020, Ms Hothi alleging the Claimant did not attend an occupational health appointment [race & religion];

167. As a matter of fact, the claimant did not attend an Occupational Health appointment on 27 May 2020. We can see the letter inviting him to that appointment at page 222 (RB). That sets out the details of the appointment and attaches a medical consent form.
168. We have already addressed that in his grievance the claimant accepted that he filled out that form relating to Occupational Health at page 238 (RB) and that is indeed a position that he accepted, initially, in cross examination.
169. It was then the next day by way of re-examination that the claimant took us back to page 222 (RB) and said he did not receive that letter and highlighted that that form was not signed. We have already concluded that we consider the account given at the time of his grievance to be the more accurate reflection.
170. We therefore conclude that the claimant did fill out that Occupational Health consent form. That form was attached to the letter with the details of the appointment.
171. The claimant then did not attend that appointment. Therefore, any statement that he had missed the appointment cannot be less favourable treatment in circumstances where it is simply a statement of fact namely that he did not attend. We conclude this would have been said to anyone in the same circumstances as the claimant. For those reasons, that complaint fails.

Issue 4.2.20 on 22 October 2020, Ms Hothi shouting at the Claimant “if I ever hear it then I will terminate you, this is my first and last warning to you” following him having ended an abusive telephone call [race and religion];

172. It is understood this concerns a complaint where the claimant was in the office and in response to him having ended an abusive phone call Ms Hothi said ‘if I ever hear it then I will terminate you, this is my first and last warning to you’. The list of issues states that this incident occurred on 22 October 2020. That is confirmed by way of the discussion at case management. That case management order was sent to the claimant and he did not identify any error in relation to that list of issues, indeed, as we have already set out, that list of issues was confirmed by him as accurate at the outset of these proceedings.
173. In that regard, we note that the claimant was on sickness absence on 22 October 2020 as is outlined in the record of sickness at page 678 (RB). In any event, we also understand that at that time, because of the covid lockdown and provisions, all staff were working from home on that occasion save for attending the office due to postal duties. As such the claimant and Ms Hothi would not have been in the office on this date such for this to have occurred, either by reason of the claimant’s sick leave or by reason of the covid working arrangements.

174. We also note in that regard, that at page 232 (RB) of the claimant's grievance that was made on 1 June 2020, he appears to refer to that incident. This simply would not be possible because the grievance pre-dates the alleged incident.
175. There is no date given by the claimant in his witness statement in relation to this matter. Indeed, there is no details of the incident from his own perspective. The claimant does take us to his bundle, page 145 (CB), being an email that the respondent was sent from a Renato Mapembe, who the claimant says witnessed this incident. That email is dated 26 October 2020. We do not separately have a witness statement from that individual for the purpose of these tribunal proceedings, nor did that witness attend, and we do make the observation that we understand that this witness also made his own grievance against Kam Hothi, and so, in those circumstances, they cannot be said to be entirely independent.
176. We do note the content of the superseding grievance appeal outcome letter sent to the claimant at page 383 (RB), where this allegation was upheld on appeal based on that witness evidence that was set out at page 145 of the claimant's bundle. As previously indicated, we are not bound by the decisions reached in the grievance outcome but have regard to the same.
177. Ms Hothi's evidence in relation to this incident is that it did not occur.
178. In resolving the dispute, we conclude that this incident did not occur. On the claimant's dates it could not have happened because he was not in the office then due to sickness or covid lockdown working arrangements. The account at page 145 (CB) is noted but this appears in an email format. Mr Mapembe has not provided a statement for the purposes of this Tribunal nor attended for that evidence to be tested. The claimant has adduced no evidence of his own in relation to the incident by way of his witness statement.
179. We conclude the incident did not occur for those reasons and therefore that complaint fails.

Issue 4.2.21 Ms Hothi saying "there might be people around" [disability, race and religion].

180. There is no reference in the witness statement to that and Ms Hothi was not cross examined on the same.
181. It is in the claimant's grievance at page 233 (RB) but there is nothing that links that to one of the claimant's protected characteristics. He puts that in the context of her not acknowledging his disability and suggests that there would be other people around in the office, and we would rely on our findings that we have made for 4.2.13 in that regard. That complaint therefore fails.
182. On that basis, for those reasons, all of the complaints of direct discrimination fail and are dismissed.

Issue 5 - Harassment

Issue 5.1.1

183. This is the same as issue 4.2.2. We rely on the same reasons given for that complaint. Factually it did not occur and therefore it fails under the harassment complaint also.

Issue 5.1.2

184. This is the same as issue 4.2.5. Factually, we found that did not happen for the reasons already given. That complaint therefore fails.

Issue 5.1.3

185. This is the same as issue 4.2.7. Factually, we found that did not happen for the reasons already given. That complaint therefore fails.

Issue 5.1.4

186. This is the same as issue 4.2.8. Factually, we found that did not happen for the reasons already given. That complaint therefore fails.

Issue 5.1.5

187. This is the same as issue 4.2.9. Factually, we found that did not happen for the reasons already given. That complaint therefore fails.

Issue 5.1.6

188. This is the same as issue 4.2.14.

189. This is the email that was sent to the claimant by Ms Hothi that he had not updated his timesheets. Factually this did occur and we rely on the reasoning already given in relation to that.

190. However, there is a different test that applies for harassment to that of discrimination. Direct discrimination concerns something done “because of” a protected characteristic. Harassment is “related to” a protected characteristic (as outlined at issue 5.3) and we go on to look at the ‘section 26 environment’ as outlined in the law section above. These issues are outlined at points 5.4 to 5.5.

191. We conclude this was unwanted conduct by the claimant because of how he describes it in his grievance, namely at page 229 (RB) that it was an “unprofessional” and “provocative” email. He says at page 230 that it had a “bullying tone” that could be easily assessed and that if it were in person she would be “shouting and raising her fingers”.

192. We conclude that that email was not related to race or religion but rather was a management instruction to follow the process in relation to flexitime. The email was sent to Mr Tobias White who the claimant accepted was not the same race as him, albeit his religion was not known.

193. In any event, we conclude that it did not have the purpose of violating the claimant’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant because there was a policy in place for

flexi time which included the submission of timesheets. This procedure is outlined in our findings for issue 4.2.14 which are relied on here. The importance of completing the timesheets was identified by Ms Hothi both at the time and in evidence. As such an email sent reminding the claimant to submit his timesheets cannot have had the purpose of violating the claimant's dignity or creating that environment.

194. We therefore go on to whether or not it had that effect. In doing so we take into account the claimant's perception, the other circumstances of the case and whether it was reasonable for the conduct to have that effect. The claimant's perception is outlined in his grievance and above.
195. However, we observe the circumstances to be during covid when less work was available and when there was more importance of submitting the timesheets, which was in line with policy in any event, to justify any additional working. It is a management instruction to follow the process around flexitime. We do not consider that it was reasonable in those circumstances for the email to have had this effect when it is a reminder of the process. At that time the respondent was two months into lockdown, all individuals were working from home and, clearly, there was a need for better monitoring.
196. That position is supported by Tobias White who acknowledges that it was his mistake for not following the process. We conclude therefore that the email did not have the effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.
197. The complaint therefore fails for those reasons.

Issue 5.1.7

198. This is the same as 4.2.17. Factually, we found that did not happen for the reasons already given. That complaint therefore fails.

Issue 5.1.8

199. This is the same as 4.2.15. Factually, we found that did not happen for the reasons already given. That complaint therefore fails.

Issue 5.1.9

200. This is the same as 4.2.16.
201. We have concluded that that did occur and we rely on the reasons already given.
202. We go on to apply the applicable test for a harassment complaint and find that this was unwanted conduct in circumstances where the claimant was reluctant to share the details of whom he was making the grievance against.
203. We look at whether or not it was related to race (being the protected characteristic relied on for this complaint.) We conclude that it was not related to race. There was clear evidence by Ms Ashby the comment that was made was to understand who the grievance was against so that she could make

appropriate working arrangements between the parties where necessary. It is also a factually true statement, namely that as the claimant's line manager she would have likely found out about the grievance details in due course in any event. As such the complaint fails at that stage.

204. In any event, we conclude that it did not have the purpose or effect of creating the 's26 environment.' The claimant does not himself suggest it had that purpose or effect but rather his position is that it breached confidentiality, his issue being that Ms Ashby then told Ms Hothi, rather than Ms Asby's comment having caused offence.

Issue 5.1.10

205. This is the same as 4.2.18. We rely on the same reasons already given in relation to that issue. We have concluded it did occur.
206. In terms of whether or not that was unwanted conduct we conclude that it was. The claimant clearly did not want to be subjected to that stage 1 sickness review meeting.
207. This is said to be related to race, religion or disability and we conclude that it was not related to any of those protected characteristics. Ms Ashby was following the standard sickness policy and procedure which the claimant had triggered and which is outlined in our findings above. That is the clear reason why the claimant was subjected to that stage 1 review meeting. Although the meeting was sickness related, the absences indicated at page 227 (RB) were not related to his disability but rather other medical conditions as set out in that document such that we conclude it was not related to his disability. The complaint fails for those reasons.
208. In any event based on our findings above we conclude that it did not have the purpose of violating the claimant's dignity or creating the section 26 environment.
209. It was an act of following the policy by the respondent. The claimant had been subjected to this policy in December 2019 (page 204 RB) for which he made no complaint, and we conclude that was because he knew it was a policy of the respondent.
210. We also conclude it did not have the effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.
211. We understand that the claimant was upset by that process but that falls short of the s26 environment. Further we conclude that any such perception by the claimant was not reasonable in circumstances where it is the enforcement of a sickness policy. We make the observation that the policy itself appears to be a reasonable one and one which seeks to manage staff absences and implement any additional support required. By this stage, the claimant had had a number of sickness absences. This was the second time that this policy had been triggered and this was in circumstances where the sick note at page 221 (RB) then signed him off for a period of 28 days.

212. For those reasons that complaint also fails.

Issue 5.1.1

213. This is the same as 4.2.19 and we again rely on the reasons already given. We conclude that it was not an allegation that he did not attend the Occupational Health appointment. Factually, the claimant did not attend the appointment.

214. We do conclude that it was unwanted conduct in circumstances where the claimant's position was that he did not know about the appointment (despite him having received the appointment letter on our findings).

215. We conclude that it did not relate to his race or religion. It is simply stating a matter of fact as to what happened and there is nothing to suggest that it would not have been said to anyone else that did not attend their Occupational Health appointment.

216. For the same reasons, we conclude that it did not have the purpose or effect of violating the claimant's dignity or creating the section 26 environment in circumstances where, ultimately, he did not attend that appointment.

Issue 5.1.12

217. This is the same as 4.2.20. Factually we have concluded that did not occur. We rely on the reasons already given and this complaint therefore fails.

218. The complaints of harassment are therefore not well founded and they are dismissed.

Victimisation

219. It is not in dispute that there was a telephone call during which the claimant said he was going to make a grievance and the respondent did not seek to challenge that there was a belief that the claimant may do a protected act.

220. We go on therefore to look at the detriment the claimant alleges occurred as a result of that which is set out at issue at 6.2.1.

221. In the list of issues that is said that this occurred in September 2020 but, during the course of these proceedings, that has been corrected and it is understood that it was May 2020.

222. As a matter of fact, this did occur and Ms Hothi did remove the claimant from the WhatsApp group on 19 May 2020. We can see the evidence in the respondent's bundle at page 226 and that is reproduced in the claimant's bundle at page 134.

223. Ms Ashby's evidence in relation to this is, as we have already addressed, was that this telephone call during which the claimant said he may do a protected act took place on 21 May 2020. That is the call in which the claimant said he was going to make a grievance. On her evidence therefore, the removal of the claimant from the WhatsApp would have occurred before that call and the indication that the claimant was going to make a grievance.

224. On our findings however, we have found that the call was made on 18 May 2020, we prefer the claimant's evidence on that point and, therefore, this did take place prior to the claimant's removal from the group.
225. As such, we look at firstly, whether or not it was a detriment but also at the reason why the claimant was removed from that group. In that regard, both the evidence of Ms Ashby and Ms Hothi was that there was no written policy to that effect but it would be standard practice that if an individual was on sick to be removed from the group. At the time the claimant was on sick (RB page 221) and as such he was removed from the group for that reason.
226. We also note that the WhatsApp group was set up in light of the covid pandemic and was a way of staff to check in each morning and to confirm that they were working on any particular date. We heard evidence that Ms Ashby had originally set up a group for this purpose and the evidence was that when she went on leave Ms Hothi set up a new group to take over temporary management of the team because she had not been on the original group set up by Ms Ashby.
227. The claimant did indeed take us to another WhatsApp group with an extract at page 166 of his bundle. The claimant made the point in relation to that, that he was removed from Ms Hothi's group but was not removed from the group at page 166 (CB). We conclude that the evidence at page 166 on that point is inconclusive because we note that the last exchange in that chat is from 26 March 2020. The claimant has not produced the records from that chat from the period in question, namely 20 May 2020; and so, we cannot see, on that evidence, whether or not he continued in that group.
228. The claimant also made the point that when he returned to work, he was not re-added to Ms Hothi's group that we can see at the respondent's bundle page 226. In that regard, we do note the record of sickness at page 678 records that from 15 May 2020 the claimant is then off for a three-month period. It then appears that he returned for one month before then going on to sickness absence again; which would offer an explanation into why he was not re-added.
229. Further it is noted that Ms Hothi herself was on leave between 20 July 2020 and 5 October 2020, firstly being compassionate leave to 20 July 2020 and then as sickness leave to 4 October 2020. As such she was not at work during this time to re-add him.
230. We also note by that time Mr Bahir had taken over the line management of the claimant. This is set out in paragraph 3 of his witness statement and was not challenged by the claimant. His line management was between 15 July 2020 and 31 May 2021. His evidence was that he had an individual WhatsApp chat with the claimant for the purposes of managing attendance. As such, that is another explanation in relation to why the claimant was not re-added to the group.
231. In relation to whether it was a detriment, the Tribunal acknowledges that this is a low threshold but one which needs to be crossed and we look at whether the employee reasonably understood that they had been disadvantaged. In that regard, we note that the claimant in his grievance at page 234 in relation to this issue says:

“I do not mind, however, as a courtesy she could have dropped me a line by saying as you are off work so we don’t want to disturb you”

232. We consider that, based on that evidence, the claimant clearly understood the reason for his removal and did not consider it a detriment at that time. He says he did not mind. We conclude, in those circumstances, that there was no detriment in terms of the claimant’s removal from the WhatsApp group in May 2020.
233. The complaint fails therefore at that stage, but we will make the observation that, even if it was a detriment, we conclude that it was not because the respondent believe that the claimant had done or might do a protected act.
234. Ms Hothi’s evidence was that she did not know about the grievance at that time she removed the claimant from the WhatsApp group and there is no documentary evidence to suggest that she was aware of the grievance at that time. Further the claimant does not advance any evidence as to the basis on which he believes Ms Hothi was aware. If she did not know about it, the removal from WhatsApp could not have been because of it.
235. In any event, even if she were to be aware of the grievance, there is a clear reason supported by both Ms Ashby and Ms Hothi that it was practice to remove individuals from the WhatsApp group when on sick leave. That is what happened to Ms Ashby when she went on leave. The evidence of both Ms Hothi and Ms Ashby was that there was a discussion and an agreement between both of them to remove the claimant in light of his sickness. That sickness is, of course, supported at page 221 (RB). It records stress at work and it is entirely plausible that that decision was therefore taken to remove him from the group in line with standard practice and in circumstances where his sickness is said to be stress at work.
236. Therefore, we conclude that the reason the claimant was removed from the group was not because of belief that the claimant would do a protected act. The victimisation complaint therefore fails.

Issue 2 – Unfair dismissal

237. The claimant was employed from 25 March 2019 on an initial 18 month fixed term contract. That is confirmed in the offer letter at page 175 (RB). This confirms that the contract was for a trial of a pilot scheme that was being run by Slough Borough Council and was subject to initial funding. That position was confirmed by Ms Ashby in paragraph 9 of her witness statement, and she confirms that the recruitment was linked to a bus lane enforcement pilot scheme.
238. The claimant’s fixed term contract was extended to December 2020, at page 253 (RB), subsequently to 31 March 2021, at page 1131 9RB) and then finally to 31 May 2021, at page 1134 (RB).
239. In relation to the reason, or the principal reason for the claimant’s dismissal, the respondent says the reason was redundancy. We consider that in support of that being the reason for the claimant’s dismissal there was clear evidence before the

tribunal of a full reorganisation of Slough Borough Council and that is set out at pages 1186 to 1216 (RB). It was not disputed by the claimant that there was that reorganisation of Slough Borough Council.

240. As part of that process, there is evidence that there was a consultation with employees generally. That involved consultation with the trade unions and also with the claimant directly. Examples of that are at pages 335, 408, 433 and 386 (RB).
241. The evidence supports that as a result of that restructuring the claimant's role was effectively deleted and therefore at risk of redundancy. Further the funding allocated to the role was linked to the temporary bus lane enforcement pilot scheme. We note that position applied to all three parking appeal officers in the claimant's team, not just him. We also note that all three of those individuals were made redundant and no evidence to suggest that those roles were backfilled.
242. We note that in terms of the reorganisation and the matching process (being assigning the new roles in light of the re-structure) was completed by an outside agency with involvement of the trade unions. We can see that at page 408 (RB).
243. We do conclude on that evidence that there was reorganisation, which was not disputed. That re-organisation led to a reduction in the number of people required to carry out the claimant's role and led to a genuine redundancy situation.
244. On that evidence, we therefore find that the reason for the claimant's dismissal was redundancy.
245. We turn therefore to the process, and that is the points under issue 2.2.
246. At this stage we make the observation that the ET1 was presented on 4 February 2021. At that point, the claimant's fixed term contract was due to end 31 March 2021, and the complaint about termination of his contract at that time was in relation to the reasoning that there was no funding for the bus lane project. There has not been any separate application to amend the claim by way of the later decision to dismiss or to include any specific allegation that the process was unfair.
247. We would also make the observation that, in the claimant's witness statement, he does not allege that the process that took place in relation to his dismissal was unfair.
248. We are satisfied that the claimant was consulted, that is set out in Gurdip Bahir's witness statement, paragraph 8 and 9, which was not challenged by the claimant. That position is confirmed in the emails at pages 1132 (RB) and the extension subsequently at page 1134 (RB). We conclude that the respondent adequately warned and consulted the claimant.
249. The selection decision including the selection pool related to a complete re-organisation of the respondent's structure which took place across management.

That selection decision was carried out in consultation with trade unions and directly with employees. Further the claimant had been employed on a fixed term basis that was linked to a bus lane enforcement parking scheme and for which the funding had come to an end. As such we conclude that the respondent adopted a reasonable selection decision.

250. We can see that as part of the re-structure, the claimant was aware of roles that were internally advertised because he applied for those roles. We can see that through that process he had the assistance of a Mr Savio De Cruz evidenced at page 477 (RB). Indeed, in cross examination, the claimant confirmed that he was helped with that process. We also note at page 484 (RB) that the claimant thanks Mr De Cruz for his support. We conclude therefore that the respondent took reasonable steps to find the claimant suitable alternative employment particularly in light of the fact that this was part of a wider re-organisation and re-structure.
251. The claimant did then take us to the fact that he chased up that process because he had not received any response from Human Resources. However, we consider that is not relevant to the issue of fairness of this process but rather related to him being unsuccessful in those alternative role applications.
252. The termination letter at page 465 (RB) which related to the employment ending 31 March 2021, set out that the claimant had a right to appeal the decision. That sets out that the reason for dismissal was the Phase 2 consultation which had determined that the three parking appeal officer contracts would be terminated and that again supports our conclusion that there was a genuine redundancy situation. There is no evidence that the claimant appealed that decision at the time.
253. We can then see the termination letter for the contract ending 31 May 2021 at page 544 (RB.) That confirms that the claimant has already been placed on the redeployment register and, again, supports that that process did take place. That does set out that the claimant had a right to appeal to Mr Joe Carter.
254. The respondent's position is that the claimant did not appeal that decision. The claimant's position is that he did.
255. In respect of that the claimant says in his witness statement at points 18 and 56 that after he exhausted the grievance, he escalated it to Joe Carter. It is unclear to the Tribunal on that evidence whether that escalation was with reference to the grievance outcome (which concerned the discrimination complaints) or regarding the decision to terminate the claimant's employment.
256. We can see a copy of that appeal letter in the bundle at page 705 (RB) but we were not taken to any evidence by the claimant as to how he submitted that appeal. He does not say whether he delivered it by hand, by post or by email and he does not provide any email or letter separately by way of confirmation that it was submitted.
257. We also note that the same document also appears at page 709 of the respondent's bundle and there are differences between those two documents. The first line of page 705 has a date in bold but the second version at 709 does

not. Again, the first version at 705, the first paragraph is longer, but the second version 709, is shorter. There also seems to be a different appeal document at page 697 and in absence of confirmation as to which version was sent, or how it was sent, we are not satisfied that the respondent received this document or what document was received.

258. On the evidence before us, we conclude that the appeal was not submitted to the respondent because we are not taken to any documentary evidence of its submission and nor are we taken to which version was submitted. We make the observation that, based on the documentary history, the respondent has otherwise been proactive in dealing with the issues raised by the claimant. There was a lengthy grievance and a further investigation into recruitment processes as a result. In those circumstances, we consider that if the respondent had, indeed, received that document, they would have acted upon it.
259. In those circumstances we conclude that to the extent this was an appeal in relation to his dismissal rather than in relation to the grievance, this was not received by the respondent. The respondent does not address the appeal, but we conclude it is for that reason, namely that it was not received by them.
260. We conclude therefore that the respondent acted reasonably in all of the circumstances in treating redundancy as a sufficient reason to dismiss the claimant.

Issue 1.1 Time limits

261. The complaints having failed on their merits, we have not gone on to consider time limits any further. We will make one observation and that is that, as of 1 June 2020, the claimant was alleging discrimination. At that time, some of those incidents dated back to 2019 so on the face of it they were out of time even at that stage, based on the primary limitation period of three months less one day from the alleged act of discrimination.
262. We understand the claimant's position was that he was awaiting the outcome of the grievance. In that regard we note that the claimant got the outcome to the appeal of that process on 25 November 2020. We can see that at page 380 (RB). The final page of that document at page 385, confirms that that exhausts that process; there is no further recourse for the claimant. There is then no reason advanced by the claimant as to why he then does not contact ACAS until 24 December 2020, so nearly one month later, in circumstances where he has known about the alleged discrimination from 1 June 2020.
263. Without making a determination because the complaints fail on their merit in any event, this would likely have been persuasive factors in determining whether it was just and equitable to have extended time.

Approved by:

Employment Judge French

22 June 2026

JUDGMENT SENT TO THE PARTIES ON

22 June 2026

FOR THE TRIBUNAL OFFICE