



EMPLOYMENT TRIBUNALS

Claimant: Mr I Igweike

Respondent: Driver and Vehicle Licensing Agency

Heard at: Swansea **On:** 27 April, 28 April, 29 April, 30 April and 01 May 2026

Before: Mr M Lewis
Miss H Mason
Employment Judge Russell

Representation

Claimant: In person

Respondent: Mr. R Goodwin, Counsel

JUDGMENT having been sent to the parties on 18 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:

REASONS

Background

1. By way of a claim presented on 02 October 2024 the Claimant complains of direct race discrimination, a failure to make reasonable adjustments, harassment related to race and/or disability, victimisation and a failure to allow him to be accompanied to a grievance meeting pursuant to section 10 of the Employment Relations Act 1999. The Respondent defends the claim.
2. The Tribunal received a witness statement from the Claimant. For the Respondent it received witness statements from Melanie Aston, Emma Cullen, Jonathan Curtis, Jessica Davies, Andrew Jones, Richard Thomas, and Denise Williams. All witnesses were questioned on their evidence. The Tribunal had a bundle spanning 675 pages. We considered those pages to which we were directed by the parties. References to page numbers below are references to page numbers in the bundle. The Tribunal received oral submissions from both parties and written submissions from the Claimant. The Claimant's written submission, at footnote 2, contained a reference to events that had happened in 2016 that appeared to be the subject of another discrimination complaint. The Claimant was not employed by the Respondent in 2016. The Tribunal raised this with the Claimant who clarified that this footnote was included erroneously in the submissions.

3. The Claimant is representing himself in these proceedings. The Tribunal is experienced in dealing with litigants in person. Having regard to the overriding objective to deal with cases fairly and justly, the Tribunal was concerned to ensure that the parties were on an equal footing. To this end, the Tribunal provided guidance to the Claimant on how to question witnesses. It suggested that a list of questions be prepared and a note made of where key documents, to which the Claimant wished to refer, could be found. It repeatedly reminded the Claimant of the issues that had to be determined and of the need to focus on questions which are relevant to those issues.
4. Part of the overriding objective is to ensure that cases are dealt with proportionately. It would be contrary to the principle of proportionality for this case to extend beyond the five days given to determine the matter. A timetable was discussed with the parties at the outset of the hearing and reiterated throughout the hearing. The Claimant was reminded of the need to use his time for cross-examination to focus on matters that are relevant to the issues to be decided. It is not uncommon for those unfamiliar with cross-examination to phrase questions in a lengthy way. That said, the Tribunal observed that the length of the Claimant's questions was unusual and it was not always clear to the Tribunal when a question was finished or when it was turning into submissions.
5. The Tribunal allowed exceptional leniency to the Claimant both in how he questioned witnesses and in how he addressed the Tribunal. This included the heightened manner in which he addressed the Tribunal at the outset of day 3 for which he apologised. This leniency was allowed to ensure that the evidence could be heard and the issues determined in the time allowed. The Tribunal appreciated the constructive approach taken by Respondent's counsel to enable the Tribunal to fulfil the overriding objective.
6. Reasonable adjustments were discussed with the parties at the outset of the hearing. The Claimant requested frequent rest breaks and an extended lunch break on one day to allow him to prepare submissions. One witness for the Respondent also required regular breaks. These adjustments were made.
7. Judgment, which was unanimous, was given orally on the final day of the hearing. Judgment was approved by EJ Russell for issuing on 05 May 2026 and was sent to the parties by the Tribunal administration on 18 May 2026. The Claimant requested written reasons on 05 and 17 May 2026. His requests were sent to EJ Russell on 18 May 2026.

Applications

8. Two applications were made during the hearing. On day 1 the Claimant applied for 8 additional pages of disclosure to be admitted. The Claimant argued that the disclosure was relevant to his complaint of a failure to make reasonable adjustments and the question of whether the claimed PCP was in place at the relevant time. The Respondent objected to the application. The Tribunal allowed the late disclosure. It considered that any prejudice to the Respondent could be mitigated by allowing the Respondent to call an additional witness who could give evidence on the matters addressed in the additional disclosure. Full reasons for allowing the application were given at the hearing.

9. On day 3 the Claimant made a second request for additional disclosure to be admitted. The Claimant had, prior to the hearing, made an application for specific disclosure. This had been refused. Reasons were given by the Employment Judge who determined that application. The Claimant raised the issue of specific disclosure with the Tribunal. He then clarified that his second request related to other documents that had been included in a draft version of the bundle. He alleged that these had been removed by the Respondent without his knowledge. Following a short break in proceedings, the Claimant acknowledged that the relevant documents were in the bundle. The allegation that documents had been removed by the Respondent was without basis. There was therefore no need for the Tribunal to determine any further application for additional disclosure.

Issues

10. The issues that the Tribunal had to decide are set out in the Appendix. The Tribunal clarified with the parties at the outset of the hearing the List of Issues. Save for the correction of typographical errors and the removal of paragraph 6 (this referred to duplication of the harassment and direct discrimination complaints when there is no duplication), the List of Issues is that agreed by the parties and contained at pages 187-191 of the bundle. The original numbering has been retained in the Appendix.

Findings of fact

11. The Claimant describes himself as of Black African ethnicity and his nationality is British/Nigerian. He described himself in his witness statement as having a Nigerian accent. The Respondent is the Driver and Vehicle Licensing Agency commonly known as the DVLA.
12. The Claimant has Glaucoma. The Respondent accepts that the Claimant was, at the material time, disabled pursuant to section 6 of the Equality Act 2010 by reason of Glaucoma.
13. The Claimant was employed by the Respondent on 01 November 2021 as an Administrative Officer. His employment was subject to a probation period until February 2022.

Events while on Team 8

14. The Respondent is organised into various groups. One of these is Drivers Medical. This group deals with the licensing of people with medical conditions. Within this group, there are various teams. Following the completion of his probation in February 2022 until the end of April 2024 the Claimant was line managed by Alex Rix who led Team 8.
15. The Claimant began training as a caseworker in Drivers Medical in March 2022. The Respondent has an in-house training team known as Functional Learning. This designs and delivers a range of training opportunities including both general and refresher training. Topics include various medical conditions and driving standards.
16. The job of a medical caseworker requires the use of a computer to review cases digitally. These cases involve issues around a person's fitness to drive due to a medical condition. A caseworker will work to a set of

operating instructions that prompts the caseworker as to the appropriate actions to take such as what letter to send. The role does not involve detailed examination of a person's medical records. More complex cases are escalated to a nurse, medical adviser, or a more senior colleague.

17. The Claimant was referred for an occupational health assessment by Alex Rix in the summer of 2022. He experienced eye strain. In a report dated 15 August 2022 the Occupational Health adviser recommended that the Claimant take a 5 minute break every hour for 12 weeks to rest his eyes until he met with his Consultant for a further review. It was noted that the Claimant has glasses to help with eye strain [208-209].
18. A second Occupational Health assessment was held on 09 December 2022 following a further referral from Alex Rix [210-211]. It is clear from the content of the report that the occupational health adviser considered that the referral was partly prompted by a concern that the Claimant was making errors in his casework. The OH adviser noted that the Claimant was 'very unaware' of the reasons for his referral:

"[He] was not aware of mistakes that he has made and has had no feedback regarding this. His present trainer is good and supportive, however, he does feel because he has not finished training that he has made some errors, but nothing has been discussed fully."
19. The report contains a section titled 'Manager Question(s)'. The Tribunal found that this referred to specific questions raised by Alex Rix. A question was raised about whether the Claimant considered his condition to affect his work and asked what could be done to support him. The Claimant did not feel that his condition affected his work. He was *'more concerned about the lack of communication when he makes errors and he is not told about them'* [211]. The Occupational Health adviser recommended that the Claimant take 10 minute breaks every hour for 6 weeks then a 5 minute micro-break per hour indefinitely.
20. Alex Rix met with the Claimant following receipt of this report. A follow-up email confirming the main points of this 1-2-1 meeting was sent to the Claimant on 16 December 2022 [212]. Alex Rix clarified that the reason for the OH referral was that the old report was due to expire and not because of concerns about accuracy errors. The Claimant was still undergoing training at this point. During training, employees will continue with their official reporting line to their line manager but this will be relatively minimal (in terms of monthly 1-2-1 meetings and annual leave requests). Day-to-day coaching and supervision as they learn about new conditions will be led by their training manager.
21. Employees will continue to carry out some casework to develop their skills during training but productivity targets will be reduced as they are primarily involved with training. During this period of training, the Claimant had a target of 16 cases per day. This was an adjusted target. An employee without reasonable adjustments would be expected to review 21 cases per day when on training.
22. The Respondent has a flexible working hours policy [213]. The Claimant typically arrives for work around 08:15. He accepted under cross examination that his start time is unrelated to his disability. Paragraph 5a of

this policy sets out the rules regarding lunch breaks. The relevant parts provide that:

“Everyone is entitled to a one hour lunch break; there must be a minimum of half an hour and a maximum of 2 hours to be taken during the normal lunchtime period i.e. between 11:00 - 14:30 hrs... Staff may work a maximum of 6 hours before taking a minimum 30-minute meal break. Staff who work more than 6 hours must take a minimum 30-minute break during the normal lunch time period.”

23. The Drivers Medical group has a micro-policy on flexi time from 01 April 2023 [216]. This sets out the rules for the operation of the flexible working hours policy as it applies to Drivers Medical. The relevant part of paragraph 11 of the micro-policy mirrors the general working hours policy and provides that ‘a minimum 30-minute lunch break must be taken between 11:00am and 14:30pm’.
24. In the 1-2-1 meeting held in December 2022 Alex Rix reminded the Claimant of the rules regarding when employees could take lunch. He observed that the Claimant had taken his lunch break outside the permissible times on three occasions in the previous two weeks. He cautioned him that if he continued to do this, it would result in an informal warning [212].
25. The Respondent offers refresher training to employees. Refresher training can be undertaken for several reasons including where errors are made in an employee's work. It is not unusual for employees to undertake refresher training. It may even be requested by the employee himself. The Claimant had requested refresher training previously in 2023.
26. The Claimant began a 5-week refresher training period with Andrew Harry around early 2024 to improve his casework knowledge and confidence. On 28 February 2024 Andrew Harry recommended that when the Claimant returned to his team, he should work on cases involving a limited number of named conditions to aid his understanding and confidence. He recommended that someone check the Claimant's work to provide feedback. Alex Rix was copied into this recommendation as line manager [221]. Jonathan Curtis, a Functional Learning practitioner, endorsed this recommendation. On 28 February 2024 he wrote:

“My experience of Anthony from my session in vision workshop is that he can be pretty quiet and reluctant to confirm if there is understanding or not on various subject matter. I think we should be careful not to overload him with additional conditions until we have clear evidence that he understands these and shows that in the accuracy of his work.”
27. The Claimant finished training around early March 2024. He returned to his team on 11 March 2024 [607]. His cases continued to be checked.

Move to Team 9

28. On or around 29 April 2024 the Claimant moved to team 9 after team 8 had been disbanded. Richard Thomas became his line manager. Richard Thomas is a People Manager. A People Manager will deal with staff welfare, productivity, and coaching issues. Richard Thomas had briefly

worked with the Claimant in June 2022 as a colleague before being promoted to People Manager at the end of June 2022.

29. Richard Thomas had a handover with Alex Rix about the Claimant. This included the Claimant's occupational health reports from 2022. He was, therefore, aware that the Claimant has Glaucoma and experienced eye strain. Kieran Francis was an experienced caseworker in team 9. He was assigned by Richard Thomas to act as a dedicated 1-2-1 support for the Claimant when he joined team 9. Adjustments were made to Kieran Francis' productivity targets to allow for the time that he would take supporting the Claimant including answering the Claimant's questions. Such adjustments are known as 'downtime'. The Claimant was told that Kieran Francis was his dedicated support.

Events of 03 May 2024

30. A few days after joining team 9, the Claimant arrived at work on 03 May 2024 without his glasses. Richard Thomas noticed that the Claimant was not wearing his glasses. He asked the Claimant whether he could use the computer without glasses and suggested that the Claimant go home to get his glasses.
31. The Claimant did not want to go home. He said that he would only go home if it was not taken from his leave. Richard Thomas explained that the Claimant could leave work to get his glasses but that he would need to use leave to do so. Alternatively, he could use leave to finish work early. In the end the Claimant did not go home to collect his glasses. He did not finish work early. He continued to work all day without his glasses.
32. At 13:44 on 03 May 2024 Richard Thomas emailed the Claimant to record various points that he had discussed with the Claimant over the few days since had had joined team 9 [234]. The email records several issues. The Claimant was told that, as from 08 May 2024, he would only review cases on five named medical conditions until refresher training was completed. He was asked only to use his work phone to make but not answer calls so that he could concentrate on the work he was doing. Richard Thomas also wrote (in bold) the rules around taking a 30 minute lunch break and when this could be taken.
33. With regards to the glasses incident, Richard Thomas wrote that he had offered the Claimant the opportunity to use his own time and finish work early as he was concerned about the Claimant's eye strain and ability to work. He commented: *'You declined this offer as you didn't want to use your own time to do this, and you said that you don't need your glasses in order to see the computer screen'*. The Claimant was asked to reply to this email to confirm that it was an accurate record of discussions.
34. There is a difference in account between the parties about what was said about the Claimant's ability to use the computer without glasses.
35. The Claimant was unhappy on receipt of this email. He and Richard Thomas ultimately moved to a private room to discuss it during the afternoon of 03 May 2024. The Tribunal found that this was a tense

discussion. Richard Thomas left the meeting room and asked his manager Corinna Hill to come into the meeting, which she agreed to do.

36. Following the meeting Richard Thomas sent a further email to the Claimant at 16:35 [235]. It was identical to the email sent at 13:44 that day save for the addition of one sentence:

‘This afternoon we have had a further meeting where you stated that due to your eye condition Glaucoma you cannot work for a prolonged time at a computer screen without your glasses as this could cause a detrimental affect [sic] on your eyes’.

37. The Tribunal considered that this email was an accurate account of the discussions between Richard Thomas and the Claimant. It found that it was not until this meeting, following the initial email, that the Claimant clarified that while he could use the computer without glasses, he could not do so for a prolonged time.
38. The Tribunal reached this conclusion for two reasons. First, the email on 16:35 is a contemporaneous written account of events. Second, the Claimant was asked to reply to confirm its accuracy. At 16:43 on 03 May 2024 he sent a reply to confirm *‘That’s fine’*.
39. The Tribunal found that the Claimant had agreed that this was an accurate account. In his oral evidence the Claimant said that he had not read the email and that his reply was a mistake. The Tribunal did not accept this version of events. He had plainly read the initial version of the email as this had prompted the meeting. Given the Claimant’s strength of feeling about the contents of the initial email, the Tribunal found it implausible that the Claimant would not have read the contents of the second email carefully before agreeing to it.

15 May 2024 – 12 June 2024

40. On 15 May 2024 the Claimant attended a further Occupational Health assessment [237] following a referral by Richard Thomas [607]. The referring manager raised concerns about the Claimant’s apparently inconsistent use of the 5-minute breaks to rest his eyes (he did not always appear to take them) and claims of forgetfulness particularly around taking lunch at the times permitted by the policy. The Occupational Health Adviser recorded that the Claimant denied any issues with forgetfulness or memory. The Claimant thought that he was generally managing well with the adjustment of 5 minute rest breaks per hour. The OH adviser recommended that the 5 minute breaks each hour continue and ‘that when required these are increased to 10 minutes every hour when [the Claimant] is experiencing increased pressure behind his eyes or headaches’ [238].
41. In early June 2024 Richard Thomas held his usual 1-2-1 monthly meetings with team members. Two members of the team (Michelle Morris and Steve Oram) mentioned that the Claimant was asking questions of them [492]. They felt that some of the answers were already covered in the operating instructions available to members of the team. They were worried that the extent of the questions would impact on their productivity targets. Neither Michelle Morris nor Steve Oram had been given an adjustment in their

targets unlike Kieran Francis. They told Richard Thomas that their perception was that the Claimant was taking them away from their own work for over 30 minutes at a time. The Tribunal found that Richard Thomas gave a credible description of what he was told. His oral account was consistent with more contemporaneous written evidence.

June 2024 Refresher Training

42. On the Claimant's move to team 9 there was some uncertainty on the part of Richard Thomas about the status of the Claimant's refresher training, whether it had been signed off, and whether someone was required to check the Claimant's work. Richard Thomas knew that the Claimant had attended refresher training but did not know until the handover that the Claimant had to return to refresher training. On 26 April 2024 he checked the position with Jonathan Curtis who told him that the Claimant had to remain with his current trainer until the Respondent was in a position to give him full training again [224].
43. Richard Thomas emailed Alex Rix on 29 April 2024 to clarify the position further. Checks had been made of the Claimant's work but as few errors had been reported over recent days and due to the lack of availability of a checker, no checks had been made over the past week. He told Richard Thomas that the Claimant would need to finish refresher training and have an official sign-off. Whether checks of his work should be made was, in his view, a matter for Richard Thomas [225].
44. The Tribunal found that the decision for the Claimant to complete further refresher training had been made before the Claimant moved to Richard Thomas' team. It was reasonable for Richard Thomas to presume from the information given to him by Alex Rix that this was required.
45. On 03 May 2024 Richard Thomas sought further clarification on the status of the Claimant's refresher training and whether sign off was required. Jonathan Curtis explained that originally sign off was not required but, due to the extent of the quality issues identified in the Claimant's work, Martin Owens (Senior Operations Leader) concluded that sign off was required [230]. The decision that the Claimant required further sign off was not made by Richard Thomas. Whether sign-off is required will depend on the circumstances. If sign-off is deemed necessary, the employee will have their work monitored for a period and will need to meet a certain accuracy standard before their training will be signed off. Other employees have had to have their work signed off. The rule did not just apply to the Claimant.
46. The Claimant began refresher training in mid-June 2024. Jonathan Curtis determined that the Claimant would benefit from a more individualised approach rather than a group-based setting. The contemporaneous written account supports his account given to the Tribunal that he made this decision based on his concern to ensure (i) that the Claimant had a full understanding of the topics; and (ii) that the Claimant would be comfortable raising any lack of understanding. There was another trainer present during the training and a notetaker. The Tribunal found that Jonathan Curtis gave an open account of wanting a notetaker present to ensure that there were no suggestions that he had not delivered adequate training.

47. There is a dispute about whether Jonathan Curtis told the Claimant that this was the first time that there had been such 1-2-1 training. Jonathan Curtis denied saying this. The Tribunal preferred the account of Jonathan Curtis. He was a straightforward witness. He was complimentary of the Claimant. The contemporaneous written evidence supports his account that he wanted to deliver quality training and ensure the Claimant's understanding. There have been other occasions where Jonathan Curtis has delivered individualised training.

Meeting 15 June 2024

48. Richard Thomas met with the Claimant on 15 June 2024. The meeting was to discuss the OH assessment carried out on 15 May 2024. During that meeting, he mentioned to the Claimant what Michelle Morris and Steve Oram had said about the Claimant asking them questions. He reminded the Claimant of the availability of Kieran Francis.
49. There was a difference in account about what was said to the Claimant. The Claimant said that he was told not to ask questions. Richard Thomas denied saying this. His account was that he encouraged the Claimant to ask questions of Kieran Francis. The Claimant was not to stop asking questions but to ask them of the person who was his dedicated support.
50. The Tribunal preferred Richard Thomas' account of this meeting. This was consistent with the more contemporaneous written evidence namely the notes of a grievance investigation meeting held on 05 August 2024. Viewed holistically, it was also consistent with (i) the Claimant having been allocated Kieran Francis as an experienced, dedicated support and (ii) Kieran Francis having his own productivity targets adjusted to allow for the support he would give to the Claimant.

Grievance: 24 June 2024

51. The Claimant raised a grievance on 24 June 2024. He requested a change of line manager from Richard Thomas. He raised allegations of bullying, harassment and race discrimination [324]. Martin Owens received the Claimant's grievance. He told the Claimant on 28 June 2024 that Corinna Hill (Richard Thomas' line manager) would be the Claimant's main contact for any business issues rather than Richard Thomas. The Claimant was going through refresher training by this point and so day-to-day contact would primarily be with his training manager. Jessica Davies (Corporate Relationship Manager) was appointed as investigation manager.
52. On 11 July 2024 the Respondent invited the Claimant to attend an investigation meeting [340]. He was advised that he could be accompanied by a trade union representative or work colleague. The invitation was sent during the Claimant's refresher training period. The Claimant replied on 12 July 2024. He explained that he did not want to attend meetings during his training period [344]. Jessica Davies wrote to the Claimant on 16 July 2024 with an alternative date and reassured him that the meeting would not have a significant impact on his training schedule. The Claimant did not want to meet with Jessica Davies until after his training concluded in September 2024. Jessica Davies told the Claimant that it would not be reasonable to delay the investigation until then. She offered to provide the Claimant with a

list of questions so that he could respond in writing around his training schedule [355]. On 31 July 2024 the Claimant told Jessica Davies that his union representative would like to speak with a senior manager. Jessica Davies informed the Claimant that the deciding manager was Emma Cullen.

53. In the meantime, Jessica Davies began to investigate the grievance. She met with Richard Thomas on 05 August 2024 [427]. He told her that staff members had reported that the Claimant was taking them away from their own work for 30 minutes to an hour sometimes. During this meeting he described how the Claimant had shouted at him and gave his account of the 03 May meeting. Jessica Davies asked Richard Thomas after the meeting to provide her with names of colleagues who witnessed his conversations with the Claimant. Richard Thomas provided a list of names on 05 August 2024.
54. Jessica Davies met with an additional seven employees in relation to the investigation. On 15 August 2024 Briony Thomas told Jessica Davies of an incident in which she observed the Claimant to be 'really aggressive and wound up about rules and regulations' [439]. She sat near the Claimant. Corinna Hill's account of the 03 May 2024 meeting was that the Claimant was 'quite aggressive' during that meeting and was calling Richard Thomas, who was present at the meeting, 'he' [442]. In her opinion the Claimant is quiet but 'can become aggressive'. While another witness observed the Claimant to shout [450], no other witnesses described the Claimant during the grievance process as 'aggressive'.
55. The Claimant finished refresher training on 06 September 2024. During his training, he had little contact with Corinna Hill as he was mostly in contact with his trainer. His line manager was changed when he finished training. He moved to Melanie Aston's team on 09 September 2024.
56. During his training, Jessica Davies continued to progress the Claimant's investigation. On 05 September 2024 she wrote again to the Claimant to ask if he would like to meet with her or engage with the investigation [369]. She sent a further email on 12 September 2024 asking if the Claimant intended to meet with her [384]. A further invitation was sent for a meeting later in September 2024 [389].
57. On 27 September 2024 the Claimant asked that his representative from Accord union accompany him [398]. DVLA recognises PCS. There was some confusion about whether a representative from another union could attend. Jessica Davies sought advice on this matter. It is clear from her emails sent at this time that there was confusion, which she subsequently clarified.
58. There were several attempts to reschedule the investigation meeting. Ultimately a date of 02 October 2024 was offered. This was the meeting that was intended to have taken place in July 2024. There were further attempts to reschedule the meeting after this. By 08 October 2024 Jessica Davies had clarified that the Claimant's Accord representative could accompany him [411]. On 10 October 2024 the Claimant wrote to Jessica Davies. He had, by this time, presented his complaint to the Tribunal. He said he would seek legal advice on the grievance meeting [412]. Jessica Davies had understood this to mean that the Claimant did not wish to attend a grievance meeting [414]. The Claimant clarified that he had not said this

and that his representative would not be available until 15 October 2024 [414]. The Claimant was due to go on annual leave from 16 October until 01 November 2024. Jessica Davies concluded that it would not be appropriate to delay the investigation further and so concluded her stage of the process on 14 October 2024.

59. On 05 November 2024 Emma Cullen, the grievance decision-maker, invited the Claimant to a grievance hearing on 14 November 2024. She informed the Claimant of his right to be accompanied. The Claimant attended with his Accord representative [462]. A further meeting was held on 22 November 2024, which the Claimant attended with his trade union representative.

Toilets and Richard Thomas grievance

60. The Tribunal found that there was no dispute that on two occasions Richard Thomas and the Claimant were in the toilets at the same time. Richard Thomas informed HR that on 19 September 2024 the Claimant had stepped in his way while he was trying to wash his hands. He told HR that this may have been a coincidence. The Tribunal found that this was while the grievance was ongoing.
61. Richard Thomas raised a separate grievance on 25 November 2024 about the Respondent's handling of the complaint against him. In February 2025 the Claimant came into the toilet after Richard Thomas who then left the toilet. Richard Thomas raised this in the context of his own grievance and the impact on him of recent events.
62. The Claimant was invited to a meeting in respect of Richard Thomas' grievance. Emma Cullen was also invited to a separate investigation meeting as part of Richard Thomas' grievance. Both Emma Cullen and the Claimant were sent standard invitation letters. The letters note that if the invitee or their companion cannot reasonably attend the meeting, they should propose a new date. The letter continues that failure to do so or failure to attend the meeting without reasonable explanation may result in disciplinary action [504].

Targets

63. Up to September 2025 case workers within Drivers Medical had a general productivity target of reviewing 7 cases per hour. This involves reviewing the case file online, noting what needs actioning (such as sending a letter), then carrying out the relevant action. A monitoring system allows the Respondent to see what cases are being accessed by employees and to calculate how many cases are accessed per hour. There were no targets at all between September 2025 and March 2026 due to a new casework system having been introduced. During training, caseworkers generally had a target of reviewing 21 cases per day. During the Claimant's training period, his adjusted target was 16 cases per day.
64. Due to the lack of written evidence on this point, the Tribunal placed reliance on the oral accounts.
65. Denise Williams, Higher Executive Officer within Drivers Medical, was a straightforward witness. She has overall responsibility for 8 teams within Drivers Medical. Denise Williams gave a clear account that the Claimant's

target was adjusted in line with his occupational health recommendations regarding breaks. His altered targets were 6 cases per hour when taking a 5 minute break and 5.5 cases per hour with a 10 minute break. There had never been any formal monitoring of the Claimant's targets.

66. The Claimant's oral account was somewhat confused at times about whether he accepted that his target was reduced depending on the length of breaks he would take each hour. The Claimant's oral account contained detailed calculations of how many minutes he would have per case with his reduced targets. During this evidence, he appeared to accept that there had been a reduced target. At other times during his account, he appeared to resile from that position.
67. Richard Thomas' account was that the question of targets for the Claimant was essentially academic as the Claimant never had any targets applied to him. He had only worked for Richard Thomas in his substantive role for around one month before beginning training again in June 2024. During the training period, he would have reduced targets. During the month when he was doing substantive work for Richard Thomas, no target was applied.
68. Melanie Aston's view was consistent with that of Denise Williams. Her account was that the Claimant had never been expected to meet a particular target.
69. The Claimant had eye surgery in January 2025. An occupational health report was provided on 19 February 2025 [510]. This recommended hourly breaks of 10 minutes each and that management should discuss achievable targets with the Claimant. In the context of the Claimant recovering from eye surgery and having made a request to work overtime, Melanie Aston wrote to the Claimant on 04 March 2025 [512]. In her written account, she explained that she had not worded this email well. She said that as the Claimant had not completed the 12 week recovery period post-surgery, she wanted him to work his standard hours only. With regards to targets she wrote:

"As you are currently not achieving what is required of you with the hours you are currently working of 7 cases accessed a hour, we will not put any adjustments in place and we will monitor your performance after the 12 weeks".
70. Melanie Aston's account was that she meant that no targets would be put in place until after the recovery period. A further occupational health report was obtained on 30 June 2025 [569]. On 03 July 2025 Denise Williams wrote to the Claimant. She apologised for any confusion regarding the issue of monitoring his work and explained that his target would be 5.5 cases per hour.
71. In October 2025 Melanie Aston emailed each individual team member with their productivity statistics for the month. She used standard wording in the cover email. She did not alter this wording for the Claimant's circumstances. The cover email referred to a target of 'approximately 7 cases' [668]. The Tribunal found that this was sent in error given the confirmation in July 2025 that the Claimant's target was 5.5 cases per hour.
72. The Claimant had also been copied into further email correspondence in March 2026 about targets following the introduction of the new case

management system. The Tribunal found that these were generic emails sent to all team members containing information about the standard target. They reflected the general position rather than an individual's targets.

73. The Tribunal drew a distinction as to (i) whether the target of 7 cases per hour applied to the Claimant and (ii) whether the Claimant had been expressly, clearly and consistently told of the adjustments that had been made to his targets. We find that it was not always communicated to him clearly until July 2025 when he was told that his target was 5.5 cases per hour [571]. We find that this was partly due to the periods the Claimant had spent in training and refresher training during this time when standard hourly targets did not apply. Moreover, the view taken by the Claimant's line managers (Richard Thomas and then Melanie Aston) was that the issue was somewhat academic as he was never monitored. It was always accepted by his managers that he would necessarily be able to do less due to his hourly breaks. There was no action taken against the Claimant on grounds of capability or performance. There was no disciplinary action taken. It could not reasonably be said that 1-2-1 meetings would count as formal monitoring.
74. In sum, we find that the Respondent had a general productivity target of 7 cases per hour (until the case management system was changed) but that this was never applied to the Claimant.

Relevant Law

75. The Tribunal summarised the relevant legal principles in its oral judgment and sets them out more fully here.

Direct discrimination

76. Section 13(1) of the Equality Act 2010 provides that: "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".
77. In determining detriment, the question is whether the treatment is of such a kind that a reasonable worker would or might take the view that in all the circumstances it is to her detriment or disadvantage (*Shamoon v Chief Constable of the Royal Ulster Constabulary* [2003] ICR 337, HL). There is no need for any physical or economic consequences. An unjustified sense of grievance is insufficient. Detriment is also given a wide interpretation under the EHRC Employment Code: 'Generally, a detriment is anything which the individual concerned might reasonably consider changed their position for the worse or put them at a disadvantage.
78. The crucial question in a direct discrimination case is: What is the reason why the Claimant was treated as he was? Was it because of the protected characteristic? Or was it wholly for other reasons? In determining the answer to this question, the Tribunal must concentrate on the mental processes of the decision-maker in considering what motivated the decision-maker to act as he or she did (*Nagarajan v London Regional Transport* [1999] ICR 877, HL).
79. In terms of the burden of proof, section 136(2) of the Equality Act 2010 states that if there are facts from which the Tribunal could decide, in the

absence of any other explanation, that a person contravened a provision of the Act, the Tribunal must hold that the contravention occurred. This means that if there are facts from which the Tribunal could properly and fairly conclude that the difference in treatment was because of the protected characteristic, the burden of proof shifts to the Respondent.

80. In *Igen v Wong* [2005] ICR 931 the court set out 'revised Barton guidance' on the shifting burden of proof. We bear in mind that the court's guidance is not a substitute for the statutory language and that the statute must be the starting point.
81. The bare facts of a difference in status and a difference in treatment only indicate a possibility of discrimination. They are not, without more, sufficient material from which a tribunal 'could conclude' that, on the balance of probabilities, the Respondent has committed an unlawful act of discrimination. "Something more" is needed (*Madarassy v Nomura International plc* [2007] EWCA Civ 33), although this need not be a great deal: "In some instances it will be furnished by non-response, or an evasive or untruthful answer, to a statutory questionnaire. In other instances it may be furnished by the context in which the act has allegedly occurred..." (*Deman v Commission for Equality and Human Rights* [2010] EWCA Civ 1279.) It is necessary for the Tribunal to adopt a holistic approach and look at matters in the round.
82. The Tribunal reminded itself of the Supreme Court's judgment in *Hewage v Grampian Health Board* [2012] ICR 1054 and that there can be cases where the Tribunal can proceed straight to the 'reason why' without a detailed examination of the burden of proof.

Harassment

83. Section 26(1) of the Equality Act 2010 provides that a person harasses another if A engages in unwanted conduct related to a relevant protected characteristic and the conduct has the purpose or effect of violating B's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for B. Section 26(4) further provides that in deciding whether the conduct has this effect each of the following must be taken into account: (i) the Claimant's perception; (ii) the other circumstances of the case; and (iii) whether it is reasonable for the conduct to have that effect.
84. "Unwanted" has essentially the same meaning as "unwelcome" or "uninvited". Where conduct is offensive or obviously violates a claimant's dignity, that will automatically be regarded as unwanted (*Reed and anor v Stedman* [1999] IRLR 299). Comments and behaviour must be looked at in context in order to determine whether they were unwanted (*Evans v Xactly Corporation Ltd* EAT 0128/18).
85. The test for whether the treatment had the proscribed effect has both a subjective and an objective element. This involves the Tribunal considering the claimant's perception of the effect in question and whether it is reasonable for the conduct to be regarded as having that effect (*Pemberton v Inwood* [2018] ICR 1291). The words "related to" in section 26(1)(a) require an evaluation of the evidence in the round. It is a broad test.

Victimisation

86. Section 27 of the Equality Act 2010 provides that a person victimises another if he subjects that person to a detriment because he has done a protected act. Guidance on the causative test can be found in *Chief Constable of West Yorkshire Police v Khan* [2001] ICR 1065 where the House of Lords held that the causative test for victimisation was not a strict 'but for' test. Instead, the Tribunal should focus on what was the real reason for the Respondent's conduct. The Tribunal must determine what motivated the employer to act as it did.

Reasonable adjustments

87. The scope of the duty is contained in section 20 of the Equality Act 2010. Section 20(3) imposes a requirement that applies where a 'provision, criterion or practice' of the Respondent puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled. The requirement is to 'take such steps as it is reasonable to have to take to avoid the disadvantage'.
88. The Tribunal must determine the nature and extent of the alleged disadvantage with regards to the Claimant's particular circumstances. It must consider what it was about the Claimant's disability that gave rise to the problems that put him at the alleged substantial disadvantage.
89. The importance of a methodical approach to the determination of reasonable adjustments complaints was endorsed by the Court of Appeal in *Newham Sixth Form College v Sanders* [2014] EWCA Civ 734. The Tribunal must consider what is the provision, criterion, or practice ("PCP") relied upon? How does that PCP put the Claimant at a substantial disadvantage in comparison with persons who are not disabled? Can the Respondent show that it did not know and could not reasonably have been expected to have known that the Claimant was a disabled person and likely to be at that disadvantage? Has the Respondent failed in its duty to take such steps as it would have been reasonable to have taken to have avoided that disadvantage?
90. Section 212(1) of the Equality Act 2010 defines substantial as more than minor or trivial. The test of substantial disadvantage is an objective test. It requires a comparative exercise to test whether the PCP has the effect of disadvantaging the disabled person more than trivially in comparison with others who are not disabled. For the requirement to arise the Respondent must have both knowledge of the disability and knowledge that the Claimant is likely to be placed at the substantial disadvantage.

Right to be accompanied

91. Section 10 of the Employment Relations Act 1999 gives workers a right to be accompanied to a grievance hearing. Section 10(1) applies where a worker is required or invited by an employer to attend a grievance hearing and reasonably requests to be accompanied at the hearing.
92. For the purposes of section 10, section 13(5) describes a grievance hearing as 'a hearing which concerns the performance of a duty by an

employer in relation to a worker'. The list of appropriate companions is contained in section 10(3).

93. The ACAS Code of Practice on Disciplinary and Grievance Procedures 2015 (the "Code") draws a distinction between investigations as part of a grievance process and hearings. Rule 4 of the Code sets out a number of elements that should be followed in a fair grievance process. These elements include: 'Employers should carry out any necessary investigations to establish the facts of the case' and 'Employers should allow employees to be accompanied at any formal disciplinary or grievance meeting'. These elements are listed separately in paragraph 4 of the Code.
94. This distinction between investigations and hearings is further reflected at paragraph 34 of the Code, which notes that consideration should be given to adjourning a grievance meeting so that any investigations may be carried out.
95. Paragraph 35 of the Code sets out that 'Workers have a statutory right to be accompanied by a companion at a grievance meeting *which deals with a complaint about a duty owed by the employer to the worker*' (emphasis added). Paragraph 38 provides that if the worker's chosen companion will not be available at the time proposed 'for the *hearing*' the employer must postpone (emphasis added). Paragraph 39 sets out what the companion may do during the hearing.
96. More comprehensive guidance about dealing with grievances is contained in Discipline and Grievances at Work: The ACAS Guide (2020) (the "Guide"). The Guide does not have statutory force. Under the heading 'When do workers have the right to be accompanied?', the Guide says:

"A worker who raises a formal grievance about a duty owed to them by their employer has a right to be accompanied at a grievance hearing. This includes any meeting held with them to hear about, gather facts about, discuss, consider or resolve their grievance".
97. Harvey on Industrial Relations and Employment Law (paragraph 377) notes that there has been no reported case law on the statutory definition contained at section 13(5) of the Employment Relations Act 1999.

Conclusions

Direct race discrimination

Issue 2.2.1 – being told to stop asking questions

98. The Tribunal found that the allegation contained at issue 2.2.1 was not what was said. It found that the Claimant was told that there was a concern that he was taking team members away from their work. The perception of team members was that the time that they would be taken from their work could be upwards of 30 minutes per day. For the reasons we explain above, we find that the Claimant was not told to stop asking questions. He was told to ask questions of Kieran Francis who had been given allocated time to help the Claimant and was his dedicated support.

Issue 2.2.2 - Requirement to attend training on his own

99. The Claimant was not excluded from group attendance at training workshops in July 2024. He was given individualised training. While he was required to attend training on his own, when read objectively, the allegation that he was 'excluded' from a group training event is not borne out by the evidence.
100. The Tribunal considered carefully whether, if these two allegations were made out, was that less favourable treatment because of race. The Tribunal did not accept that the provision of individualised training was a detriment. Even if it could be construed as such, the contemporaneous written evidence supported the conclusion that the reasons for this treatment were wholly unconnected to race.
101. The reason why the Claimant was directed to ask questions of Kieran Francis rather than other team members was because Kieran Francis had been allocated to the Claimant as a dedicated support. Richard Thomas had clearly envisaged that the Claimant would have questions and had put in place a system where an experienced caseworker would be available to the Claimant to help any answer any questions. The Tribunal accepted that asking questions of a colleague would necessarily mean that a colleague would not be as productive with their own caseload. This had also been recognised by Richard Thomas who had adjusted Kieran Francis' workload and had given him downtime to assist the Claimant. Other team members did not have this allocated downtime. This treatment was wholly unconnected to the Claimant's race.
102. The Tribunal accepted Jonathan Curtis' account of why the Claimant was given individualised training rather than group-based training. On 28 February 2024 Jonathan Curtis had noted that the Claimant had been quiet in a group-based workshop. He considered that the Claimant may not have wanted to speak up in a group context if he had misunderstood any material. The decision to offer individualised training was to provide dedicated support. It was designed to help the Claimant, to provide a more comfortable environment in which he could ask questions, and to ensure that the trainer could check the Claimant's understanding. It was wholly unconnected to his race.

Failure to make reasonable adjustments: lunch break

Issue 3.1: PCP of 30 minutes break between 11:00 and 14:30

103. The Tribunal found that there was a PCP requiring employees to take a minimum of 30 minutes' lunch break between 11:00 and 14:30. This is clearly set out in the Respondent's flexible working policy and in the Drivers Medical Micro-Policy. The PCP was applied by the Respondent.
104. The Tribunal did not accept that this PCP put the Claimant at a substantial disadvantage in comparison with others. The Claimant's alleged disadvantage, namely that a break would interrupt his concentration and increase the likelihood of errors and reduced productivity, was entirely inconsistent with the occupational health advice that the Claimant should have hourly breaks to mitigate against eye strain. It was also inconsistent with his own account of requiring hourly breaks.
105. The Claimant works on multiple, short cases per hour. There was no need for lengthy periods of concentration beyond several minutes. The

Claimant's start time at work was unaffected by disability. He had considerable flexibility regarding when he could take his lunch. He had a 3.5 hour window in which he could decide when to stop for lunch. It cannot reasonably be said that he was put to substantial disadvantage by this PCP.

Failure to make reasonable adjustments: productivity target

106. *Issue 4.1: Productivity target of 7 cases per hour*

107. The Tribunal accepted that the Respondent had, until the introduction of a new case management system, a target that caseworkers within Drivers Medical must access an average of 7 cases per hour. It had found that, in practice, the productivity target was more nuanced than this. During training periods, the target did not apply. Moreover, there was a period when no targets applied at all when the new case management system was being introduced. The Tribunal concluded that the Respondent had this PCP and applied it to caseworkers in Drivers Medical for most of the time.
108. The Tribunal did not accept that the PCP was applied to the Claimant. The Tribunal did, however, accept that the Respondent's communication with the Claimant about this issue could have been clearer. The Tribunal placed particular reliance on the oral accounts of the witnesses on this issue. The evidence of Richard Thomas, Denise Williams, and Melanie Aston all supported a finding that this target was never applied to the Claimant either because he was in training, the targets had been suspended for all caseworkers, or because it was always accepted that his target would be reduced due to his hourly breaks. The Tribunal found that Denise Williams' account was particularly clear and unequivocal. When the Claimant had a 5 minute break, his target would be 6 cases per hour. When he had a 10 minute break, his target would be 5.5 cases per hour. She confirmed this target with the Claimant in July 2025.
109. The Claimant's account was somewhat confused. He had calculated the minutes per case that he would have with a target of 6 and 5.5 cases respectively and appeared to argue that this was insufficient. This was not the case before the Tribunal. The issue for the Tribunal to determine was whether the target of 7 cases per hour was applied to the Claimant and, if so, did it put him at a substantial disadvantage. Moreover, when addressing the Tribunal with these calculations, the Claimant appeared to accept the Respondent's account that his targets were adjusted. At other times, he resiled from this position.
110. The position was further confused by email correspondence from Melanie Aston to the Claimant in March and October 2025. Melanie Aston accepted that the March 2025 email had been poorly worded. She also acknowledged that the October 2025 email had been copied from a generic email sent to other team members and had not been tailored to the Claimant.
111. The Tribunal considered carefully whether the emails sent by Melanie Aston confirmed the Claimant's position that a non-adjusted target continued to apply to him or whether they had been sent in error. Viewing the evidence in its entirety, the Tribunal concluded that they had mistakenly

been sent. The Tribunal was satisfied that Melanie Aston had made a genuine error. The Tribunal reached this view based on Melanie Aston's open account to the Tribunal of this error, the evidence of other witnesses of the adjusted targets that applied to the Claimant, and Melanie Aston's own account that the Claimant had never been subject to any monitoring due to his targets.

112. The Tribunal concluded that the PCP had not been applied to the Claimant. He had mitigated targets due to his need for hourly breaks. The Tribunal accepted that the Respondent could have communicated more clearly with the Claimant on this issue. There was clear acceptance by the Respondent that the Claimant would not have the PCP applied to him due to his hourly breaks and it therefore appeared to treat the issue as somewhat academic. It could, however, have explained to the Claimant more clearly (and expressly) what his adjusted targets were. This was done by Denise Williams in July 2025. In sum, the PCP did not apply to the Claimant. He had mitigated targets. There was no suggestion that the mitigated targets were insufficient.

Harassment related to race/disability

Issue 5.1.1.1 – Criticism of phone use

113. The Tribunal had found that the Claimant was not criticised about his telephone use. He was allowed to use his telephone. Richard Thomas' email of 03 May 2024, the contents of which were accepted by the Claimant at the time, give a clear account of the discussion around telephone use. The Claimant had been asked not to take incoming calls. This was to help the Claimant focus on his work. He was clearly permitted to make outgoing calls. There was no criticism of the Claimant's 'phone use. Read objectively, the tenor of the email from Richard Thomas is clear. He told the Claimant not to take incoming calls to minimise distractions. It is a supportive measure and not a critical one.

Issue 5.1.1.2 – Tell the Claimant to go home/finish work early

114. The Claimant was told by Richard Thomas that he could either go home or finish work early on 03 May 2024 due to not having his glasses. This was accepted by the Respondent.
115. It is not accepted by the Respondent that a 2022 occupational health report gave a suggested adjustment that the Claimant would not need to go home in his own time. The Tribunal found that this is not what either of the 2022 occupational health reports said. The adjustments were in respect of hourly rest breaks. The Tribunal concluded that there is no suggestion in these occupational health reports that the Respondent should make an adjustment to its practices to allow the Claimant to go home during work time.

Issue 5.1.2 – untrue statement of Richard Thomas regarding phone use

116. The Tribunal accepted that the email sent by Richard Thomas on 03 May 2024 was a true record of events. The Claimant had accepted, on 03 May 2024, that the contents of the email were accurate. The claim that Richard Thomas wrote untruthfully in this email about the Claimant's 'phone use is without foundation. Having found that it was implausible that the Claimant

had not read the second version of the 03 May 2024 email before accepting its veracity, the Tribunal concluded that its contents were an honest and truthful account of events that had occurred between the Claimant and Richard Thomas.

Issue 5.1.3 – Threats of disciplinary action regarding lunch break

117. In December 2022, Alex Rix had informed the Claimant that his persistent failure to comply with the lunch break policy would lead to an informal warning if it continued.
118. Richard Thomas did not threaten the Claimant with disciplinary action between 01 May and 12 June 2024 regarding the taking of lunch breaks. Richard Thomas' email of 03 May 2024, accepted as accurate by the Claimant, sets out clearly and in bold the rules around the Respondent's lunch break policy. It contains no threat of disciplinary action.

Issue 5.1.4 – Untruthful statement regarding glasses use

119. The Tribunal had found that the contents of the 03 May 2024 emails were accurate. It is plain from the addition to the second email of 03 May 2024 that the Claimant had originally told Richard Thomas that he did not need his glasses to use the computer but that this was clarified during the subsequent meeting. At the meeting the Claimant explained that he could not use the computer for a prolonged period without his glasses. Richard Thomas' accounts in the emails were truthful. They were accepted by the Claimant that day as an accurate account of the discussions held.

Issue 5.1.5 – Demotion and sign off

120. The Claimant was not demoted. He has remained in his substantive role as a caseworker. Refresher training does not amount to a demotion. It may be requested by employees themselves or may be required by the Respondent.
121. Whether or not an employee will require official 'sign off' will depend on the circumstances of the individual case. Other employees have also been required to have their work officially signed off. In the Claimant's case, sign off was required by Martin Owens. This was due to concerns around the quality of the Claimant's work.

Issue 5.2 – Unwanted conduct

122. Of all the allegations set out in issue 5.1, the Tribunal found in fact that only two occurred. These were that (i) the Claimant was told to go home or finish work early on 03 May 2024; and (ii) that the Claimant's work required sign off. With regards to the issue of sign-off, the Tribunal found that this was not a requirement imposed only on the Claimant.
123. The Tribunal considered that each of these events were unwanted by the Claimant. They did not relate to the Claimant's race. Considering the evidence in the round, as the Tribunal must do, the requirement of sign-off is asked of any employee when the Respondent is sufficiently concerned about the quality of their work. The requirement to go home or finish early was due to concerns about the Claimant's potential eye strain.

124. Turning to whether the conduct was related to disability, even if a broad interpretation of 'related to disability' could lead the Tribunal to find that asking the Claimant to return home or finish early was unwanted conduct related to disability, 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. Richard Thomas' actions were plainly those of a concerned manager. Similarly, the requirement for sign off was to ensure that the Claimant had fully understood his refresher training and was able to manage in his role.
125. The conduct could not reasonably be said to have had the effect of violating the Claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the Claimant. Jonathan Curtis was highly complimentary of how the Claimant had performed during his refresher training. The training and subsequent requirement for sign off were designed to ensure that the Claimant could receive thorough training in a supportive, individualised setting. Furthermore, Richard Thomas' suggestion that the Claimant return home or leave early when he had forgotten his classes cannot reasonably be interpreted as anything other than the actions of a supportive line manager. It cannot reasonably be said that this conduct would have violated the Claimant's dignity or created an intimidating, hostile, degrading, humiliating or offensive environment for him.

Victimisation

Issue 7.2.1 – Invitation to meeting during training

126. The Tribunal accepted that the Claimant was invited by Jessica Davies to attend an investigation meeting relating to his grievance during his period of refresher training.

Issue 7.2.2 – Richard Thomas encouraging colleagues to label Claimant as 'aggressive'

127. The Tribunal found Richard Thomas to be a reliable witness. His evidence was straightforward, clear, and consistent. It was supported by contemporaneous written evidence.
128. This serious allegation relates to comments made by witnesses who provided evidence as part of the investigations into the Claimant's grievance. The Tribunal rejected the Claimant's version of events, which was unsupported by the written evidence. Of the seven witnesses who are alleged to have been encouraged to label the Claimant as 'aggressive', only two witnesses described the Claimant in those terms. As a matter of fact, the Tribunal found that the events in issue 7.2.2 did not, therefore, happen.
129. Of the two witnesses who did discuss the Claimant as aggressive, one gave an account of seeing the Claimant behave aggressively and being wound up. The Tribunal found that this was an eyewitness account based on the witness' observation.
130. The second witness who described the Claimant as being aggressive was Richard Thomas' line manager. It is clear from the notes of the

investigation meeting that this was her own perception based on her experiences of the Claimant.

131. The Tribunal concluded that these two witnesses had given evidence to the investigation process of their own volition. The allegation that they had been encouraged to label the Claimant as aggressive was entirely unsupported by the evidence before the Tribunal.

Issue 7.2.3 – Richard Thomas’ evidence about the Claimant asking questions

132. The record of the investigation meeting between Jessica Davies and Richard Thomas does not support this allegation. Richard Thomas did not say that the Claimant was taking 30 minutes to one hour when asking questions. What was said was that colleagues had reported to Richard Thomas that they were being taken away from their own work for more than 30 minutes at a time due to the Claimant asking them questions.

Issue 7.2.4 – Invitation to meeting re Richard Thomas’ grievance

133. The Tribunal accepts that the Claimant was invited to a meeting as part of a grievance made by Richard Thomas. Emma Cullen was also invited to a meeting as part of this grievance. Each were sent the same template letter. The Tribunal accepted that this letter contains a reference that failure to attend the meeting may lead to disciplinary action.

Issue 7.2.5 - Toilets

134. It is accepted that Richard Thomas informed the Respondent on two occasions of encountering the Claimant in the toilet. The first occasion was when the Claimant’s grievance was ongoing. It is plain from the contemporaneous written account that Richard Thomas was clear that the timing may have been coincidental but nevertheless thought that he should mention it. The second occasion was in the context of Richard Thomas’ grievance. It is clear from the contemporaneous written accounts that Richard Thomas was aware of the possibility that these encounters could have been entirely coincidental and that there was not necessarily any intention to intimidate. This allegation is accepted only insofar as the two toilet encounters were reported.

Issue 7.2.6 – Failure/delay to change line manager

135. The Tribunal does not accept that there was a failure to change the Claimant’s line manager when he asked for a change of line manager. As the Tribunal found, during refresher training there is little contact with the relevant line manager. Day-to-day supervision is carried out by the trainer. Moreover, a decision to change the Claimant’s reporting line was actioned on 28 June 2024 by Martin Owens. This was four days after the reported grievance. From this date the line manager was changed to Corinna Hill albeit that the Claimant continued to be supervised by his training manager. On his return from training, the Claimant was given a new line manager: Melanie Aston. The Tribunal found that there was no failure or delay in changing the Claimant’s line manager.

Issue 7.2.7 – Refusal to be accompanied by trade union rep

136. The Tribunal accepted that, initially, there was a refusal to allow the Claimant to be accompanied by his chosen representative. This was due to

a misunderstanding by Jessica Davies about whether a trade union representative who was not from a recognised trade union could act as a suitable companion.

Issue 7.3: Detriment

137. In respect of the victimisation complaint, the Tribunal found that the following events did occur:
 - 137.1 The Claimant was invited to an investigation meeting during his refresher training
 - 137.2 The Claimant was invited to a meeting as part of Richard Thomas' investigation and was informed that failure to attend may lead to disciplinary action
 - 137.3 Richard Thomas did inform the Respondent of two encounters in the toilet with the Claimant
 - 137.4 The Respondent initially refused the Claimant to be accompanied at an investigation meeting by his choice of companion
138. The Tribunal was mindful of the wide interpretation of what constitutes a detriment. Viewed objectively, it could not reasonably be said that being asked to attend an investigation meeting as part of his own grievance while undergoing training was a detriment. It was plainly the act of a reasonable employer looking to investigate a serious allegation as promptly as possible.
139. The Tribunal was also not satisfied that (i) receiving a template invitation letter that mentioned possible disciplinary action for a failure to attend a grievance investigation meeting or (ii) having a colleague report two encounters in the toilet could reasonably be construed as a detriment.
140. The Tribunal took a different view of the failure to allow the Claimant to be accompanied by a companion of his choice to the investigation meeting and considered that this could be construed as a detriment.
141. The Tribunal considered whether, if the letter informing the Claimant that disciplinary action may be taken if he did not attend an investigation meeting in respect of Richard Thomas' grievance could be a detriment, was it because the Claimant had done a protected act. The Tribunal concluded that it was not. Emma Cullen had been sent a letter in identical terms. The letter was a template letter advising employees of the consequences of failing to attend a meeting as part of a grievance investigation process. The letter was phrased as it was because of the template wording sent to all employees in that situation. It was not because the Claimant had done a protected act.
142. The Tribunal considered whether, if the reporting of the toilet encounters could be a detriment, was it because the Claimant had done a protected act. The Tribunal considered carefully the contemporaneous evidence of Richard Thomas. In respect of the first encounter, Richard Thomas is clear to point out that the encounter may have been entirely coincidental. The Tribunal found this to be a fair-minded account. The report was not because the Claimant had done a protected act but because Richard Thomas wanted to ensure a record was maintained of any encounters he

had with the Claimant during the ongoing grievance process. With regards to the second report, this was during the time of Richard Thomas' own grievance. He had raised this in the context of explaining to the Respondent the strain that he was under. The Tribunal concluded that neither reported encounter was due to the Claimant having done a protected act.

143. The Tribunal accepted that the Claimant was subjected to a detriment by initially not being allowed his choice of companion at an investigation meeting. The Tribunal did not find this misunderstanding to be reasonable given the size and resources of the Respondent. The refusal was not, however, because the Claimant had done a protected act. It was clear from Jessica Davies' account, supported by contemporaneous written evidence, that she was unclear about whether a union representative who was not from PCS would be allowed to accompany the Claimant. She had sought clarification on the issue. As soon as the issue had been clarified, she informed the Claimant that he could bring along his Accord representative.

Failure to permit the right to be accompanied

144. This issue turns on whether the Claimant had a right to be accompanied at a grievance investigation meeting rather than a formal grievance hearing.
145. The Tribunal focussed on the wording of section 13(5) of the Employment Relations Act 1999. This means 'a hearing which concerns the performance of a duty by an employer in relation to a worker'. The Tribunal considered that this duty is to determine the grievance.
146. In the absence of case law on this issue before the Tribunal, the Tribunal gave careful consideration as to how the definition in section 13(5) should be construed. It noted that the ACAS Code of Practice maintains a distinction between investigations and hearings. This distinction is reflected in paragraph 35 where it discusses what a companion may do when accompanying someone to a 'hearing'.
147. On the other hand, the ACAS Guide (supplementing the Code) appears to adopt a far more expansive view on when the right to be accompanied applies and suggests that it may apply even at an earlier fact-finding stage before the grievance hearing.
148. The Tribunal reminded itself that the Guide does not have statutory force. The statute clearly refers to a 'hearing'. The distinction that can be drawn between an investigation meeting and a hearing can also be found in the ACAS Code. The Tribunal considered that the statutory intention was to ensure that a relevant companion could attend a formal hearing with the affected employee. It was not intended to apply to a more informal, fact-finding meeting.
149. Having reached this conclusion, the Tribunal concluded that the Claimant did not have the right to be accompanied to a grievance investigation meeting pursuant to section 10 of the Employment Relations Act 1999.

Summary

The unanimous judgment of the Tribunal is as follows:

150. The complaint of direct race discrimination is not well-founded and is

dismissed.

151. The complaint of failure to make reasonable adjustments for disability is not well-founded and is dismissed.
152. The complaint of harassment related to race and/or disability is not well-founded and is dismissed.
153. The complaint of victimisation is not well-founded and is dismissed.
154. The complaint of a failure to permit a right to be accompanied pursuant to section 10 of the Employment Relations Act 1999 is not well-founded and is dismissed.
155. The Claim is therefore dismissed in its entirety.

APPENDIX

LIST OF ISSUES

1. Disability

The Claimant is disabled by reason of Glaucoma; the Respondent concedes this, but not the alleged substantial disadvantages or alleged causes of the claims below.

2. Direct race discrimination (Equality Act 2010 section 13)

2.1. The Claimant describes himself as of Black African ethnicity and his nationality is British/Nigerian; he bases his Race claims on colour, nationality, and ethnic origin.

2.2. Did the Respondent do the following things:

2.2.1. On 12 June 2024, did Mr Thomas inform the Claimant “the team has raised concerns about you asking questions and you should stop asking questions as you were preventing other team members from fulfilling their legitimate expectations”;

2.2.2 On 2 and 24 July 2024, exclude the Claimant from group attendance at training workshops, requiring him to attend such training on his own?

2.3. Was that less favourable treatment? The Tribunal will have to decide whether the Claimant was treated worse than someone else was treated. There must be no material difference between their circumstances and those of the Claimant. If there was nobody in the same circumstances as the Claimant, the Tribunal will decide whether he was treated worse than someone else would have been treated. The Claimant says he was treated worse than the other 12 employees in Mr Thomas’ team, except for claims relating to Training, when he says he was treated less favourably than other

Trainees (they not all being in Mr Thomas' Team, but Mr Thomas initiated the training by putting the Claimant up for it).

2.4. If so, was it because of race?

2.5. Is the Respondent able to prove a reason for the treatment occurred for a non-discriminatory reason not connected to race?

3. Failure to make Reasonable Adjustments (1) (Equality Act 2010 s. 20)

3.1. A "PCP" is a provision, criterion or practice. Did the Respondent have or apply the following PCP:

Requiring employees to take a minimum of 30 minutes' lunch break between 11:00 am and 14:30 pm;

3.2. Did the PCP put the Claimant at a substantial disadvantage in comparison with others in that when the Claimant is working he must concentrate fully to eliminate errors and improve his productivity, such that he becomes detached from events and circumstances around him, and the break as specified in the PCP interrupted his concentration increasing the likelihood of errors and reduced productivity.

3.3. Would it have been a reasonable adjustment to allow the Claimant to take a break after six hours of working, which would have been a break commencing at 14:15 – 14:30, and then allow it for 30 minutes from then?

4. Failure to make Reasonable Adjustments (2) (Equality Act 2010 s. 20)

4.1. A "PCP" is a provision, criterion or practice. Did the Respondent have or apply the following PCP:

A productivity target for case workers that they must complete 7 cases per hour

4.2. Did the PCP put the Claimant at a substantial disadvantage in comparison with others in that the Claimant only worked 55 minutes per hour because he had a 5 minute break as a reasonable adjustment and he was only able to use one eye but did not have a moderated target; he is not as productive as colleagues who are not disabled and had the additional time.

4.3. Would it have been a reasonable adjustment to reduce the Claimant's target by specifying if fewer case files or allowing a longer time (the Claimant says that an occupational health report in March 2025 recommended a reduction in workload but that this was refused by the Respondent)?

5. Harassment related to race/disability (Equality Act 2010 s. 26)

5.1. Did the Respondent do the following things:

5.1.1. On 3 May 2024, did Mr Thomas, in an email:

5.1.1.1. single out the Claimant for criticism about his use of his work phone during training or while on Mr Thomas' Team – he did not need to

be told not to use it; others were not so criticised; the Claimant was not allowed to use his 'phone but others were (race);

5.1.1.2. tell the Claimant to go home or finish work early (and use holiday allowance to cover those hours) because the Claimant arrived at work without his eyeglasses (disability); since an OH report in 2022 the Claimant had some adjustments such that he did not need to go home in his own time.

5.1.2. Mr Thomas stating, untruly, in an email on 3rd May 2024 that he had discussed such phone use with the Claimant between 1 to 3 May 2024 (race);

5.1.3. Between 1 May and 12 June 2024 did Mr Thomas make threats as to disciplinary action for an alleged failure by the Claimant to take breaks on or before 2:00 PM?

5.1.4. On 3 May 2024, did Mr Thomas state, untruthfully that the Claimant could see his computer screen, omitting the fact that the Claimant had informed him that he could not do so, for prolonged periods, without his glasses (disability)?

5.1.5 Effectively demote the Claimant through requiring him to undertake further training. The Claimant says he completed refresher training in March 2024 after which, on 22 April 2024, the Claimant says his previous manager informed him that Robert Wood had confirmed that the Claimant could be reinstated to full multi-skilled work. However, on 1 May 2024, the Claimant says he was effectively demoted because he was told his training was not up to scratch and then had reduced responsibilities after that date. The Claimant says Richard refused to acknowledge and accept that the Claimant had undergone the necessary training required of a multi-skilled caseworker. The Claimant also says the refresher training that Richard conducted for four females on the same team as the Claimant, did not require any sign-off, but the Claimant's training needed to be signed off.

5.2. If so, was that unwanted conduct?

5.3. Did it relate to the Claimant's protected characteristic, namely race/disability?

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. Duplication of Harassment and Direct Discrimination (Parties clarified at the outset of the hearing that there is no duplication and this Part 6 does not therefore apply)

6.1. The Claimant's complaints relating to race/disability are presented as both harassment and/or direct discrimination. The Tribunal will determine these allegations in the following manner.

6.2. In the first place the allegations will be considered as allegations of harassment. If any specific factual allegation is not proven, then it will be dismissed as an allegation of both harassment and direct discrimination.

6.3. If the factual allegation is proven, then the Tribunal will apply the statutory test for harassment under s. 26 Equality Act. If that allegation of harassment is made out, then it will be dismissed as an allegation of direct discrimination because under s. 212 (1) Equality Act the definition of detriment does not include conduct which amounts to harassment.

6.4. If the factual allegation is proven, but the statutory test for harassment is not made out, the Tribunal will then consider whether that allegation amounts to direct discrimination under the relevant statutory test.

7. Victimisation (Equality Act 2010 s. 27)

7.1. The Respondent accepts that the Claimant carried out a protected act in his letter of 24 June 2024 addressed to Martin Owens, SEO.

7.2. Did the Respondent do the following:

7.2.1. invite the Claimant to a grievance meeting during his training period; the Claimant says that he asked for the agreements [sic] to be paused until after his training so he could concentrate upon it.

7.2.2. in August 2024 Mr Thomas encourage or otherwise lead 7 white employees to label the Claimant as “aggressive”.

7.2.3. in August 2024 Mr Thomas in his interview make comments relating to the Claimant’s performance “that the Claimant was taking 30 minutes to one hour when asking questions”.

7.2.4. on 23 December 2024, following a grievance against the Claimant by Mr Thomas, invite the Claimant to a meeting scheduled for 24 January 2025 to explain why there was a delay in the grievance hearing, and saying that failure to attend will invoke disciplinary action (when the Claimant says the delay was caused by the Respondent’s denial of the Claimant’s right to be accompanied and refusal to amend the original date of the grievance meeting, as advised by ACAS), in a situation where the Claimant says that the delay was the fault of the Respondent and he alleges he was being set up for disciplinary proceedings on the basis of it being his fault which is unfair.

7.2.5. Mr Thomas raised a second grievance, and the Claimant was invited to a meeting in respect of it in March 2025; Mr Thomas alleged that in September 2024 and February 2025 the Claimant encountered him in the toilet implying that the Claimant had followed him there and he alleges the Claimant intimidated him, whereas the Claimant does not recall either occasion and he denies the allegations.

7.2.6. Fail to change the Claimant’s manager, or delay in doing so.

7.2.7. Refuse to allow the Claimant to be accompanied by his requested

union representative without providing any reasonable justification.

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

7.4. If so, was it because the Claimant had done the protected act?

8. Failure to permit a right to be accompanied (Employment Relations Act 1999 s.10)

8.1. It is not in dispute that the Claimant was invited to attend an investigation meeting relating to his grievance on 2 October 2024.

8.2. Did the Claimant have the right to be accompanied at the investigation meeting? (Note there was a later grievance hearing that the Claimant attended accompanied).

8.3. If yes, did the person nominated by the Claimant meet the description in sub section (3)?

8.4. Did the Respondent fail, or threaten to fail, to comply with sub-section (2A)?

9. Remedy

9.1. Should the Tribunal make a recommendation that the Respondent take steps to reduce any adverse effect on the Claimant? What should it recommend?

9.2. What financial losses has the discrimination caused the Claimant?

9.3. What injury to feelings has the discrimination caused the Claimant and how much compensation should be awarded for that?

9.4. Has the discrimination caused the Claimant personal injury and how much compensation should be awarded for that?

9.5. Did the ACAS Code of Practice on Disciplinary and Grievance Procedures did apply? If so, did the Respondent unreasonably fail to comply with it by not permitting the Claimant to be accompanied at the investigation meeting relating to his grievance? If so, is it just and equitable to increase any award payable to the Claimant and, if so, by what proportion up to 25%?

9.6. Should interest be awarded? How much?

Approved by:

Employment Judge Russell
08 June 2026

JUDGMENT SENT TO THE PARTIES
ON
23 June 2026

Kacey O'Brien
FOR THE TRIBUNAL OFFICE