



EMPLOYMENT TRIBUNALS

Claimant: Mr Ousman Ahmad
Respondent: Brunel University of London

Heard at: Watford (hybrid; claimant by CVP)
On: 11-13 May 2026 and 18 May 2026 (4 days)
Before: Employment Judge French
Mr R Clifton
Mr N Ramgolam

Representation

Claimant: In person (did not attend for costs decision)
Respondent: Mr A Pincott, Counsel

JUDGMENT was sent to the parties on 24 June 2026 and full reasons were requested in accordance with Rule 60 of the Employment Tribunal Procedure Rules. The following written full reasons are therefore provided:

FULL REASONS

Introduction

1. This is a claim that was presented by the claimant on 2 July 2024. He brings one complaint and that is of victimisation. Oral reasons were provided following the conclusion of the 4-day hearing.
2. Following our decision, the respondent made an application for costs which was also dealt with on day 4 of the final hearing. Having adjourned to make our decision and providing the claimant (who appeared by video) with the time to return to the video link, the claimant did not return. Attempts were made to establish the reason for his non-attendance to no avail. No correspondence was received by the claimant in relation to him not returning to the hearing. The decision on costs was therefore delivered orally in his absence.
3. The claimant subsequently requested written reasons for the costs decision by email on 8 July 2026 following receipt of the Judgment on 24 June 2026. This included a request that the reasons not be published to the public register. Employment Judge (EJ) French therefore wrote to the claimant indicating that the reasons would be published because they would be provided as full reasons and asked the claimant to confirm his position on the request in those

circumstances. No response was received.

4. The claimant's request also crossed with a request by the respondent on 7 July 2026 for full reasons for both decisions. This was not referred to EJ French until 22 July 2026.
5. As such, these full written reasons are provided. EJ French apologises for the delay owing to a period of leave between 17 July 2026 and 2 September 2026. These reasons are provided as soon as possible after her return and around existing sitting commitments.

Evidence

6. By way of evidence before the tribunal, we have a bundle that consists of 307 pages. For the claimant, we had a witness statement and heard from himself. For the respondent we had witness statements and heard from:
 - Nicola Burke,
 - Terry Skelton,
 - Debbie Codrington, and
 - Charlotte Williams
7. Both parties had an opportunity to put questions to the other parties' witnesses by way of cross examination. We also heard closing submissions from both parties, and we have had regard to the same.
8. By way of a preliminary application, the claimant made an application to appear via CVP. That was granted and we gave our reasons in relation to that application at the time. They are not repeated for the purposes of these reasons.

The issues

9. In terms of the issues before the tribunal, they were established at case management stage, and a record of the list of issues appears at pages 59 to 60 of the bundle. Those issues reflect the claimant's claim form. The list of issues was also confirmed as accurate at the outset of the final hearing. They are repeated here using the same numbering as appears in the list of issues.

Religious belief

- 1 The Claimant is a Muslim.

Religious belief – victimisation

- 2 Did the Claimant do a protected act as defined by Section 27(2) of the Equality Act 2010?
3. The Claimant relies on the following: The Claimant's MS Teams chat message during the 20 March 2024 interview, which the panel received: "Can you stop reminding me, it is impacting my focus and religious fasting?"
4. The Claimant's 20 March 2024 email sent to Debbie Codrington, which the panel probably was made aware of. The below protected acts in the email are:

“Jay Line, one of the interviewers, continuously instructed me to type using the answers to each question, just 1 or 2 sentences at a time, rather than at one go. This impacted my stress levels and concentration, which impacted my performance during the interview, as a fasting person. I even had to ask him in the chat window: Can you stop reminding me, it is impacting my focus and religious fasting?”

5. Did the Respondent subject the Claimant to a detriment? The Claimant relies upon the following allegations of detriments:

6. The interview panel (Nicola Burke, Terry Skelton and especially Jay Line), delayed in providing the Claimant the outcome.

7. The interview panel, especially Jay Line, was unreasonably critical of the Claimant's interview answers, which led to not appointing the Claimant to the role.

8. Did the Respondent subject the Claimant to the above detriments because the Claimant had done a protected act?

Remedy

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

10. Has the Claimant taken reasonable steps to replace lost earnings, for example by looking for another job?

11. If not, for what period of loss should the Claimant be compensated for?

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

Fact Finding

10. The respondent is a university and on 1 March 2024 the claimant applied for a Digital Examination Invigilator role. Having been shortlisted for that role, there was some correspondence between the parties in relation to adjustments to the interview format to allow the claimant to participate due to his medical conditions, which resulted in him attending an online interview on 20 March 2024 and included agreement that he would type his interview answers.

11. That interview consisted of three panel members; Mr Jay Lines, who chaired the meeting, Mr Terry Skelton, and Ms Nicola Burke. Mr Jay Lines no longer works for the respondent and, therefore, we did not hear from him, but we did hear evidence from the other two panel members.

12. The record of the interview is at pages 82 to 86. The interview took place via MS teams and the parties used the chat function within that software. It is therefore understood by the Tribunal and agreed by the parties, that this did not include any oral comments made by those present but recorded the written answers provided by the claimant.

13. In terms of the complaint of victimisation, the claimant relies on two protected acts.

14. The first is a comment recorded at page 83 of the bundle, which is a comment

that the claimant made during his interview process itself. The wording for that was "Can you stop reminding me it is impacting my focus and religious fasting." As a matter of fact, that is clearly stated and recorded in the record of interview. We can see that record of the interview and there is no dispute by the respondent that this comment was made. They accept that the claimant said this.

15. The context of that comment was in response to having been asked to provide shorter sentences in reply to the questions that were being asked of the claimant rather than providing lengthy chunks of text by way of response. The claimant did not dispute that that was the context, and the respondent witnesses all confirmed that that was a reminder, said orally, by Mr Jay Lines but which is not reflected on the interview record for the reasons identified above, namely the record is not a full transcript but the chat box content from the interview.
16. The second protected act relied on by the claimant is an email that we can see at page 94 of the bundle. That is an email that was sent on 20 March 2024, shortly after the claimant's interview, and it was sent to Debbie Codrington and Charlotte Williams, both part of the human resources team. The evidence of both of those witnesses was that that email was not received into their inbox or seen by them at the time and was only discovered in March 2026 when a specific search for such an email was carried out by them during the course of this litigation. Both of those witnesses confirmed that the email had been discovered in their spam or junk folders.
17. In that regard the tribunal does note in the amended response to the claim, that we can see dated 9 May 2025, paragraph 17, reflects that at that time the respondent indicated that they had not been able to identify such an email and we consider that that supports what the respondent witnesses say in relation to its receipt. Whilst we acknowledge that both witnesses in cross examination accepted that they had received other emails from the claimant, we do not consider that in itself means that they would have automatically received this email. We consider that there could be any number of reasons an email goes into a spam folder, and the tribunal considers that, receipt of an earlier email from the same address does not mean it is automatically marked safe and received on another occasion. We do also note that the claimant's suggestion that emails contained within a spam folder are automatically deleted after a period of 30 days. There was no evidence however that that was the system that the respondent had in place at that time. In those circumstances, the tribunal accepts the evidence of the two witnesses that the email at page 94 was not received into their inbox or seen by them at the time it was sent. It was received to the spam folder.
18. We conclude that there was no obvious reason as to why that evidence or those witnesses' accounts would not be accurate in circumstances where, ultimately, for the purposes of this litigation and the final hearing today, that email has been produced in evidence upon discovery and the respondent has not sought to obtain the original position that no such email had been received.
19. In any event, the tribunal concludes that, even if the email was received and seen by Debbie Codrington and Charlotte Williams at the time it was sent, there is no evidence to suggest that that email was, in turn, shared with or forwarded to the

three panel members who carried out the interview. That is important because the allegation in the list of issues is that the detriments were carried out or were the actions of the panel members. That email itself was not copied to the panel members and, as we have indicated, there is no separate evidence that it was forwarded to either one of them. Of course, if the panel members were not aware of that email their actions could not have been as a result of it.

20. As to the interview that took place on 20 March 2024, the respondent's position is that the claimant attended late. The claimant's position was that he did not recall attending late but the tribunal have understood his position to be that he was not late. The interview record is at pages 82 to 86. On page 82 we can see the very first entry time stamped 14.04 is the claimant indicating that he needs his webcam off due to a speech disability and due to the impact of fasting on religious grounds. The claimant's position is there would have been a delay for introductions, and the respondent accepts that introductions were made and, indeed, usually would be for any interview. The claimant says that that would account for why the time stamp at 14.04 appears as it does. The respondent relies on that entry as evidence that the interview commenced at 14.04 because it is the first thing that was typed, the interview having been scheduled to commence at 2 pm.
21. In resolving the dispute, we do conclude that the claimant was, indeed, late for the interview by a few minutes. We do consider that, as a matter of common sense, if the claimant attended the interview and the panel could not see him, the first comment would be to ask him to turn on his camera such that his first comment recorded at page 82 was the start of the interview. That is in circumstances where there was no prior agreement that the claimant would have his camera switched off by way of adjustment and, therefore, it is plausible that that was the first request of the panel before any introductions were made. That is supported by Ms Burke's evidence that Mr Lines made a request for the claimant to turn the camera on after which the claimant said he could not and introductions followed thereafter.
22. Mr Skelton could not recall at what stage of the interview introductions were made but when he was taken to page 82 he stated that he considered that they likely followed the comment in relation to the webcam noting the two minute delay between the two entries.
23. The fact that the claimant was late for the interview is also recorded in the scoring sheets of the interview panel members. Mr Lines records that at page 87, Ms Burke records that at page 89 and Mr Skelton records that at page 91. This is a contemporaneous record of events at that time. Based on all of that evidence, as a matter of fact, the tribunal concludes that the claimant was late to interview by a few minutes.
24. The claimant's case in support of his complaint of victimisation is that he has been unfairly scored because of his protected act which resulted in him not being offered the job. In that regard, the tribunal notes the scoring criteria at page 61 of the bundle. We also note that at the top of each score sheet, which we have already referred to, so that is 87, 89 and 91, there is a blue box with numbered scoring which ranges from 0 to 4. 0 reflects not evidenced within that blue box,

and number 4 reflects exceeding standard.

25. As to the claimant's interview itself, we make the following observations: We note the job description at page 63 of the bundle. That refers to timeliness, meeting deadlines and communication and networking as effective behaviours. That is also repeated at page 64 under the heading 'Knowledge, Skills and Abilities' where there is reference to being reliable, including punctuality, and time management skills. We also note that this is reflected in communications with Mr Mohammad, which the claimant was engaged in prior to his interview by way of a request for adjustments in relation to the format of the interview. That correspondence is at page 74 of the bundle, being an email dated 7 March 2024 where he sets out that the university would usually ask for attendance at campus because it helps assess certain qualities, and he includes punctuality as one of them.
26. We also note that at page 96 of the bundle, in the early hours of the morning prior to the claimant's interview, he requests an additional copy of the job description because he says it has been removed from the respondent's website. We can see from page 95 that this was sent to him at 10 am on 20 March following that request. The claimant indicated that he did not recall having seen that. However, we consider that that would contradict the answers that he gave in his interview, specifically at page 83 where he twice refers to the job description, namely 'assuming the job description is accurate' and 'as per the job description'. In those circumstances, we are satisfied that the claimant had sight of the job description prior to his interview because he refers to the same.
27. Therefore, based on our finding that the claimant was late to interview, the claimant clearly had not demonstrated that he met the effective behaviour of timeliness and which he would have been aware of from that job description. In any event, the tribunal does consider that it is a matter of good practise to have good timeliness when attending an interview, and that would be a key aspect for any employer.
28. We note that in relation to the answers that the claimant gives in response to question 2 at page 83, he indicates that he had previously volunteered as an invigilator years ago but does not give any details of when and where he did this. We also note that there is no reference to that role in his application form that we can see at page 67, nor does it appear in his CV. This observation was noted within the scoring sheets of the panel members who questioned its veracity. We conclude in those circumstances that it was a fair observation of the interview panel to note this, in circumstances where previous experience as an invigilator would clearly be highly relevant to the role that he was applying for.
29. We also note generally in relation to the interview, that the answers that the claimant gives appear to be copied and pasted pieces of text. That is demonstrated at page 84 where, save for two words at the start of one chunk of text, namely 'learning disability', the exact same text appears twice, which would support that the claimant was not typing his responses as the questions were being asked in real time.
30. Again, with reference to page 74, Mr Mohammad sets out that the purpose of the

interview is to test a candidate's attributes. For this role, again, as per the job description at page 63, communication is important and is clearly being assessed as part of the interview process.

31. Page 64 reflects that good communication and interpersonal skills are required for the role. That position is also reflected by the evidence of Ms Burke who sets out the importance of good communication at paragraph 10 of her witness statement. The tribunal considers that copy and pasting of answers does not demonstrate good communication skills as was observed by the interview panel.
32. We also note Nicola Burke's evidence at paragraph 29 refers to the claimant having used the same words in response to question 4 as had been used in an earlier response to question 1, and that is indeed, reflected in the transcript. She also records that that was taken from the personal statement submitted with the claimant's application, which separately appears at pages 212 to 213 and that position is also reflected in Mr Jay Line's scoring at page 87. The tribunal concludes that using parts of the same answer for different questions and repeating information already contained in the personal statement, does not demonstrate good communication skills which were being assessed as part of the interview.
33. In relation to question 3, which asks the claimant for examples of when he had dealt with a difficult situation, he gives two examples which can be seen at page 84. One of those examples we consider to be a basic example of helping an individual who was sick. The respondent's scoring and assessment of the same was that it was not a good demonstration of examples of the claimant himself dealing with a difficult situation, but rather him helping someone else with their own difficult situation. The tribunal would agree with that assessment. Whilst we acknowledge the claimant's position is that he found it difficult, the examples given we consider demonstrate difficulty for the person he helped rather than a difficult situation for himself and, therefore, he did not provide a good example of himself dealing with a difficult situation.
34. Finally, in relation to the answers given for strength and weaknesses in response to question 4. By way of explaining his weakness, the claimant effectively is describing the attribute of being modest. By way of his strength, the examples he gives are then not subsequently borne out by his conduct in his interview. Specifically, he refers to good communication, which we have already identified, and we do not consider has been demonstrated by his earlier responses. This is also where he copies and pastes part of the answer from question 1. He also refers to good accurate timekeeping in answer to this question, which, again, is not demonstrated by his lateness in attending the interview even if it were only by a few minutes. He also refers in response to being able to concentrate for long period even when under pressure, but that also is not supported by the fact that when he is asked to type shorter answers, he indicates it is impacting his focus.
35. Based on those observations, the tribunal concludes that the scoring of the panel members, as reflected at ages 87 to 92, was a reasonable and fair assessment. We conclude therefore that the panel was not unreasonably critical of the claimant's interview answers.

36. As to the scoring, the claimant did take us to a number of examples which he says demonstrated collusion between the panel members which, in turn, he places as being because of his protected act rather than the merit of his answers. This included that all three panel members had said he was late. It also included that Ms Burke and Mr Skelton had recorded that he had refused to turn on his camera and did not give any details about previous invigilation experience. The tribunal concludes that the reasons these comments were made were not because the panel colluded but rather because they were statements of fact. The claimant, on our finding, was late for interview. As a matter of fact, he did not turn on his webcam and, as a matter of fact, he did not give details of the previous invigilation role. In that regard, we also do note the evidence of Ms Burke that the failure to turn on the webcam went to the claimant's integrity, namely she confirmed that they had been unable to verify his identity at the outset of the meeting, and this was relevant to employment checks and, in turn, formed part of her overall assessment.
37. We also note that the actual marks that were given to the claimant are different between the three panel members, and whilst those panel members have made some of the same written observations, the fact that they then had a different interpretation on the related scoring we conclude would support that there was not collusion between them. If they had colluded, we consider this would have extended to the scoring also. The fact they make the same observations is therefore because they were genuine observations.
38. Feedback was provided in relation to the interview, internally recorded at pages 125 to 127 by Mr Lines, and which is then subsequently sent to the claimant by HR, at pages 132 to 133. That that feedback supports that the claimant did not perform well in interview such that he was not offered the role.
39. The claimant did also take us to the fact that within that feedback there was reference to the panel having felt that the candidate could use the "STAR method" in answering questions, and the claimant pointed out that it was only question 3 for which he could have used that method. Secondly, the claimant indicated that position was not referred to in the scoring. The tribunal considered that that was set out in that feedback as advice for future interviews because it expressly refers to the use of the technique going forward and is not an indication that the claimant was marked down for not using it in this interview.
40. Turning to the other complaint that the tribunal is concerned with, and that is that the claimant was informed of the outcome of his interview late. The claimant's position is that the panel delayed the outcome because of his protected act.
41. We can see from page 129 that the claimant was informed of the outcome on 22 April 2024. The respondent's position is that it was not the panel themselves that informed candidates of the outcome, but it was human resources (HR), and that is not a position that was challenged by the claimant. We can see from page 101 in the bundle that the panel informed HR of the outcome on 25 March 2024, which was five days after the claimant's interview. During his own cross examination by the respondent's representative, the claimant's position appeared to be that the delay of five days was the delay he referred to, but the tribunal notes that he did not put that position to any of the respondent witnesses

by way of cross examination.

42. In any event, we would conclude that the panel informing HR five days after the interview was not a delay of the interview outcome. We note in that regard that some of the interviews of other candidates started on 13 March 2024, and so those individuals had been awaiting the outcome for a much longer period. In that regard, there is no difference between the panel notifying HR of the outcome of those interviews to that of the claimants. They were all notified on 25 March 2024. Further, in that context, we also note that this was a relatively large recruitment exercise; there were a number of people being interviewed and, therefore, we consider that naturally, it would take time to get those documents submitted to HR and that, in turn, again, supports that five days was not a delay.

The law

S136 Equality Act 2010 – Burden of Proof

43. 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.
44. 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.
45. 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.
46. 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.
47. 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.

48. 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.
49. 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).
50. 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.)

Detriment

51. 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.

Section 27 Equality Act 2010.

S27 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. In Aziz v Trinity Street Taxis Ltd and ors 1988 ICR 534, CA, it was stated that an act could be a protected act 'in the broad sense, even though the doer does not focus his mind specifically on any provision of the Act'.

54. The phrase 'in connection with' the EqA in S.27(2)(c) was considered by the employment tribunal in Bayfield and anor v Wunderman Thompson (UK) Ltd and ors ET Case No.2200540/19. With regard to victimisation, it found that emails amounted to protected acts within the meaning of S.27(2)(c) because, by sending the emails, they were doing something 'in connection with' the EqA. It noted that the emails did not explicitly refer to the EqA, and some of the characteristics mentioned (such as 'privileged' and 'middle-class') were not protected characteristics. However, as the Court of Appeal noted in Aziz v Trinity Street Taxis Ltd and ors (above), the meaning of 'doing something' should be given a wide interpretation.

55. In Chalmers v Airpoint Ltd EAT 0031/19, Lord Summers, at [16] confirmed that: *The Tribunal was entitled to interpret the email according to its natural meaning. In my opinion the wording chosen by the Claimant permitted the Tribunal to conclude that the email did not allege that she had been discriminated against on the ground of sex.*

56. An approach that distinguishes between a protected act and the manner of doing that act was endorsed by Mr Justice Underhill, then President of the EAT, in Martin v Devonshires Solicitors 2011 ICR 352, EAT. In his view, there were cases where the reason for the dismissal (or any other detriment) was not the protected act as such but some feature of it which could properly be treated as *separable* — such as the manner in which the protected act was carried out. He recognised that the distinction made is subtle but maintained that such fine lines have to be drawn 'if the anti-victimisation provisions, important as they are, are to be confined to their proper effect and not to become an instrument of oppression'. Furthermore, he trusted tribunals to distinguish between features that should and should not be treated as properly separable from the protected act.

Conclusions

57. We address our conclusions with reference to the list of issues set out above.

Issue 2 - Did the Claimant do a protected act as defined by Section 27(2) of the Equality Act 2010?

Issue 3. The Claimant relies on the following: The Claimant's MS Teams chat message during the 20 March 2024 interview, which the panel received: "Can you stop reminding me, it is impacting my focus and religious fasting?"

58. In relation to the first protected act outlined at issue 3, we understand that the claimant is relying on sub section (c) of that Act, namely "doing any other thing for the purposes of or in connection with the Act." We do note in that context that there does not have to be an express reference to an alleged contravention of the Equality Act and there is a wide interpretation as per the case of Aziz.
59. However, we are entitled to look at the context in which any alleged protected act is made and interpret it according to its natural meaning (Chalmers). In that regard we note that the comment was made in response to the claimant having been asked to provide shorter answers. The claimant posed it as a question within the MS teams chat record (page 83) and, indeed, referred to it when cross examining the respondent's witnesses as having been a question. We consider that the claimant is clearly asking a question by way of a request to get the interview panel to stop asking him to type shorter answers and that is, indeed, what they do.
60. There is reference to religious fasting but the tribunal considers that that is with reference to the reason why he is having difficulty complying with the request to provide shorter answers, namely the effect on his concentration rather than it being something in connection with the Equality Act. We do consider that the mere reference to a protected characteristic in that context does not, in itself, confer something in connection with the Equality Act. We would also make the observation that the claimant is not referring to a protected characteristic but rather fasting in connection with religion which would be a protected characteristic.
61. We conclude that, even on a wide reading in the context in which that comment is made, there is nothing to suggest that this was said in connection with the Equality Act. The comment is made to offer why, in the claimant's opinion, Mr Lines' request was causing him to lose concentration. We conclude that was not for the purposes of or in connection with the Equality Act. The claimant does not suggest he could not type the answers in smaller sections because of something arising from his disability and, as such, it also cannot be interpreted to be a request for a reasonable adjustment under the Equality Act.
62. We conclude in that context, and for those reasons, therefore, that the protected act at issue 3 is not a protected act.

Issue 4 - The Claimant's 20 March 2024 email sent to Debbie Codrington, which the panel probably was made aware of. The below protected acts in the email are:

“Jay Line, one of the interviewers, continuously instructed me to type using the answers to each question, just 1 or 2 sentences at a time, rather than at one go. This impacted my stress levels and concentration, which impacted my performance during the interview, as a fasting person. I even had to ask him in the chat window: Can you stop reminding me, it is impacting my focus and religious fasting?”

63. In terms of issue 4 being the second protected act relied on by the claimant, that is the subsequent email sent on 20 March 2024 after the interview at page 94. Although only parts of the email are relied on as the protected act as identified in the list of issues, we look at the content of the email as a whole. On doing so, we do conclude that that is a protected act because we do conclude that that could be interpreted to be in connection with the Equality Act.
64. The reasons why are because, although it is reflecting what had happened in the interview, we do consider that it goes further when it says that there was nothing which mandated the questions to be typed in a shorter format, and we consider that that is wider than what the claimant raised during the interview itself at page 83 such that it can be read to have been made in connection with the equality act. It does not go as far as alleging a breach of the act but does challenge the interview process. It also goes on to state ‘my performance of the interview was impacted as a result of the pressure placed on me, as a fasting person on religious grounds as a Muslim.’ Therefore, on a wide reading, we do find that to be a protected act.
65. We therefore go on to look at issue 5 and that is whether the respondent subjected the claimant to a detriment. The two detriments relied on are those at issues 6 and 7.

Issue 6 - The interview panel (Nicola Burke, Terry Skelton and especially Jay Line), delayed in providing the Claimant the outcome.

66. As a matter of fact, we have found there was no delay by the interview panel in relation to notifying the claimant of the outcome for the reasons set out above. The panel informed HR five days later, and it was for HR to then inform candidates. As such, factually, there is no detriment because what the claimant relies on we have found did not occur. Of course, if it factually did not occur then this cannot have been because of any protected act, and so that complaint must fail.

Issue 7 - The interview panel, especially Jay Line, was unreasonably critical of the Claimant's interview answers, which led to not appointing the Claimant to the role.

67. Again, the panel have concluded, for the reasons given above that the panel was not unreasonably critical of the claimant's interview scoring such that factually this complaint must fail. It is understood that it was the unreasonably scoring on the claimant's account that led him to not be appointed to the role such that this complaint must therefore fail. However, as a matter of fact, the claimant was not appointed to the role (albeit the claimant links this to having been unreasonably scored), and we do accept that not getting the role would be a detriment to the claimant and so for completeness we look to the reason why.

Issue 8 - Did the Respondent subject the Claimant to the above detriments because the Claimant had

done a protected act?

68. We go on to look at issue 8 and that is whether or not the respondent subjected the claimant to detriments because the claimant had done a protected act for the sake of completeness.

Detriment 1

69. Factually, detriment 1 at issue 6, did not occur. That complaint fails for that reason. However, even if there was a delay in notifying the claimant of the outcome, we note that the other unsuccessful candidate, as per Nicola Burke's witness statement at paragraph 38, was notified of the outcome at the same time. There is no suggestion that that individual did their own protected act and, as such, any delay was clearly part of the process of notifying the candidates and not because of any protected act because it applied to all unsuccessful candidates.
70. Further, we also conclude that any delay was not related to the second protected act (that being the only protected act we have found) in circumstances where we accept the evidence of the respondent that they did not receive that email at page 94. Clearly, any delay cannot have been because of that email in those circumstances because the individuals did not have knowledge of it.

Detriment 2

71. In terms of detriment 2, being issue 7 namely the respondent was unreasonably critical in scoring the claimant which led to the claimant not getting the role. Again, factually, we found that the respondent was not unreasonably critical, but we address it in the broader sense of the claimant not being appointed the role. We have made as a positive finding, based on review of the transcript of the claimant's interview, that there was not unreasonable scoring.
72. As for the claimant not getting the role in circumstances where we have deemed his scoring to be fair and reasonable, the very clear reason why the claimant did not get the role was because he did not perform well enough at interview such to be offered it. We conclude, in those circumstances, that the reason he was not offered the role was because he did not score well enough. That is reflected at page 104 which again indicates that he was unsuccessful because he was unable to demonstrate the necessary attributes. That is wholly unrelated to any protected act.
73. We do make the observation that the claimant took us to the fact that he was marked down for being rude which was said to be the manner in which he had said his alleged protected act at page 83. The claimant therefore said that there was a causative link between his scoring and the protected act. We have found, in any event, that the comment at page 83 was not a protected act but even if it was, there is a distinction between the manner in which a protected act is raised distinguishable from the protected act itself. The claimant took us in that regard to the case of Martin v Devonshires.
74. We reiterate that we do not find it a protected act, but even if we had, the claimant

accepted in cross examination that the comment he made could be interpreted as rude, and, as such, he was marked down for that reason, namely rudeness in the context of the claimant being assessed at interview for a role that required good communication and interpersonal skills. That is distinguishable from the alleged protected act.

75. We also conclude that not being offered the role was not because of the second protected act relied on by the claimant (being the only one which we have found to be a protected act), in circumstances where the panel members were not copied into the email. It was the panel who scored the claimant such to not offer him the role. The email containing the second protected act went to HR alone. We have accepted HR's evidence that they did not receive that email until the subsequent search in March 2026. And even if they did see it prior to that, there was no evidence before us that this was separately sent to the panel members such to influence their decision. The claimant did not suggest that any of the panel members had been sent that email and, as a matter of fact, they were not copied. If the panel members had no knowledge of the protected act by reason of that email, this could not have materially influenced the decision not to offer him the role.
76. For those reasons the complaint of victimisation fails and is dismissed.

Costs decision

77. At the conclusion of our decision on day 4 of the hearing, the respondent indicated that they sought to make a cost application which was already in a draft written format and needed finalising. The case was therefore stood down for this to be done and to be provided to the claimant to allow him to make submissions on it.
78. The claimant did ask for the costs decision to be made on a different day however it was explained that it is an ancillary application and one which we would usually seek to deal with at the conclusion of the hearing. It would not be in his interests for the matter to go off to another day as this would increase costs and his potential liability if an award was made. Further, it was the morning of the 4-day hearing, there was sufficient remaining hearing time to determine the application, and preparation time could be given to him. It was also explained that although the respondent had drafted an application in writing, this was not required and could be made orally.
79. The written application was subsequently received by the Tribunal and the claimant. The respondent then addressed the Tribunal orally after which the matter was stood down for 1 hour and 40 minutes to allow the claimant to take lunch and to prepare for the application.
80. The claimant subsequently produced written submissions on the application as well as addressing the Tribunal orally on the application.
81. As outlined above, having heard submissions from both parties we adjourned

to make our decision. The claimant was given a time to return to the video link but did not do so. Having tried to ascertain the reason why and given additional time for him to return to the hearing, we proceeded to give our decision in his absence.

82. Those reasons are now outlined below.

The law on costs

83. Rule 74 of the Employment Tribunal Procedure Rules 2024 states as follows:

(1) The Tribunal may make a costs order or a preparation time order (as appropriate) on its own initiative or on the application of a party or, in respect of a costs order under rule 73(1)(b), a witness who has attended or has been ordered to attend to give oral evidence at a hearing.

(2) The Tribunal must consider making a costs order or a preparation time order where it considers that—

(a) a party (or that party's representative) has acted vexatiously, abusively, disruptively or otherwise unreasonably in either the bringing of the proceedings, or part of it, or the way that the proceedings, or part of it, have been conducted,

(b) any claim, response or reply had no reasonable prospect of success, or

(c) a hearing has been postponed or adjourned on the application of a party made less than 7 days before the date on which that hearing begins.

84. The Tribunal Rules impose a three-stage test: first, the tribunal must ask itself whether a party's conduct falls within rule 74(2)(a) — in other words, is its costs jurisdiction engaged?; if so, secondly, it must go on to ask itself whether it is appropriate to exercise its discretion in favour of awarding costs against that party; the third stage is the determination of the amount of any award.

85. The test for whether the claim had no reasonable prospect of success is objective, not subjective (Vaughan v London Borough of Lewisham [2013] IRLR 713, EAT, at [14](6)).

86. It was well established under previous versions of the Rules of Procedure that the term 'misconceived' could cover unmeritorious claims brought by employees who, possibly because they are unrepresented, are unaware of the legal position and genuinely believe that their employers have committed illegal acts against them and that the term misconceived includes having no reasonable prospect of success.

87. In Scott v Inland Revenue Commissioners 2004 ICR 1410, CA: Lord Justice Sedley observed that 'misconceived' for the purposes of costs under the Tribunal Rules 2004 included 'having no reasonable prospect of success' and clarified that the key question in this regard is not whether a party thought he or she was in the right, but whether he or she had reasonable grounds for doing so. The Court of Appeal held that the employment tribunal's decision in this particular case not to award costs against S should be reconsidered, as it was not clear that the tribunal

had directed its attention to the questions of whether S's case was doomed to failure or, if it was, from what point.

88. In deciding whether to make a costs order, preparation time order, or wasted costs order, and if so the amount of any such order, the Tribunal may have regard to the paying party's (or, where a wasted costs order is made, the representative's) ability to pay (rule 82 Employment Tribunal Procedure Rules 2024).

Conclusions on costs

89. We are satisfied that the costs jurisdiction is engaged. We consider that the claim had no reasonable prospect of success. Even if the claimant had satisfied this tribunal that both of the acts he says were protected acts, were protected acts, and, of course, one of those we were not satisfied, we do consider that there was no reasonable prospect of him persuading the tribunal that he did not get the role because of one or more of those protected acts. That is in circumstances where the claimant had his scoring information; he had the criteria against which he would be scored as well as the job description with the desired attributes of the candidate. We consider that it was very clear from those documents that the reason he did not get the role was because he did not score well enough and it had nothing to do with any protected act.

90. The claimant's position was that discrimination turns on witness evidence and, as such, he could not have known that he had no reasonable prospects of success. We disagree with that submission. Our findings have not turned on the witness evidence but have instead largely focused on that documentary evidence. We consider that the claimant should therefore have been aware that that particular aspect of the claim had no reasonable prospect of success, at least from the date that that disclosure was provided to him.

91. We conclude that from the point that he had the job description, the scoring criteria and his score sheet, he would have been able to make that assessment. We do consider that, even as a litigant in person, he was entirely capable of making that assessment on the documents. This is particularly so in circumstances where the claimant has identified or demonstrated himself to be a very capable individual. He has produced lengthy submissions with reference to the law, and applied it to the specific facts of his case. In any event, he would not need to know the law to be able to know and recognise that he did not score well and that was the reason he did not get the job.

92. As to the delay of the outcome, that is then a matter that he did not even put to any of the respondent panel members and he conceded, ultimately, that it was for HR to have notified him. In those circumstances, again, we consider that that complaint had no reasonable prospect of success, and the claimant recognised that because that is why he did not pursue it by way of cross examination to the witnesses.

93. We therefore conclude that the costs regime is engaged as indicated, and we go on therefore to look at whether or not we should exercise our discretion.

94. We note a cost warning letter was sent to the claimant by the respondent on 30 March 2026. We understand from the claimant's submissions that he said he did not see it; it was an email that he missed at that time. In any event a failure to send a costs warning letter would not prevent us from exercising our discretion.
95. We make the observation that, even if that email was missed by him, this is not an individual that comes to the tribunal without any previous experience of tribunal proceedings. The respondent brought to our attention that the claimant had been involved in litigation with other respondents and had been warned about his conduct in those proceedings. We make clear that we are not making this decision because of any previous decisions of the tribunal, however we do make the observation that the is an individual who has experience of other claims such to be alive to the issue of costs.
96. In that regard, the Employment Tribunal Rules are available for him to search and again, the claimant has clearly demonstrated himself as a capable individual and, therefore, would have been capable of looking up the Employment Tribunal Rules in relation to costs. We also note that the Employment Tribunal Rules are linked within previous case management orders of this tribunal, and he could have availed himself on the cost's principles.
97. We do acknowledge that costs are the exception rather than the rule. However, we were taken to correspondence in the bundle where we do consider that the claimant was not proactive in dealing with tribunal orders or engaging with the respondent such that it caused additional costs to be incurred on their behalf, namely in chasing a response and informing the tribunal.
98. We do acknowledge the claimant's health; he has provided some information from Talking Therapies to support that. However, directions were made for compliance with tribunal orders some time prior to that medical evidence. There was no application made by the claimant to vary any of the tribunal orders and it seemed from the correspondence that instead, he took the approach that the respondent was telling him when these directions needed to be done, rather than recognising that these were orders of the tribunal.
99. In accordance with rule 82 we have taken into account the claimant's means; we may do so, both in terms of whether or not to make an award but also in what sum. We do not consider that his means are such to persuade us not to exercise our discretion. We conclude for the reasons set out above that it is appropriate to exercise our discretion and make an award of costs.
100. We therefore look at the amount to be awarded. In that regard, we do have regard to the claimant's means. He is clearly an individual with very limited means at the current time. Under oath he has indicated he currently has £75, being a mix of a bank balance and £50 in cash and no other assets. He has also confirmed that he has no current income or other savings and relies on completing surveys to get food vouchers. The claimant states he has taken the decision not to apply for any benefits.
101. We do note that he was an individual who had previously and, indeed, around the time that he made this job application, held a role that was paying him

£60,000 per annum. That is clearly a well-paid role. He is therefore potentially capable of earning quite significantly, albeit we do recognise the medical evidence that he has produced as to his current mental health is such that any prospect of securing a similar role in the near future is unlikely.

102. In those circumstances, we assess the claimant to be of limited means but someone who would be entitled to state benefits, albeit he has chosen not to apply. We understand that the universal credit standard amount for someone of his age is £424 per month. We note that the claimant is currently living with a parent. He does not have any rent, he does not have any bills, and he is not paying any lodging. He has no dependents. He is not travelling to work at the current time and so he has, effectively, no outgoings, save for a very limited amount on food and which appears to be separately covered in any event by the vouchers that he is currently obtaining through doing various surveys he does.
103. We look and have regard to the costs schedule which is extensive. There are fees incurred of over £40,000. We note that the respondent limits the application to £20,000 for summary assessment. We are not going to go through it line by line on the basis that, having regard to the claimant's limited means, we limit the award to the sum of £750. That reflects that the claimant would be entitled to benefits in our view but has chosen not to apply. It in turn reflects he has limited outgoings such to make this amount available to meet a costs award.
104. The claimant must therefore pay a contribution towards the respondent's costs in the sum of £750.00.

Approved by:

Employment Judge French
11 September 2026

SENT TO THE PARTIES ON
14 September 2026

FOR THE TRIBUNAL OFFICE

Notes

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

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here: www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/