



EMPLOYMENT TRIBUNALS

Claimant: JK

Respondent: University of Bradford

Heard at: Leeds

On: 28-31 July, 4-7, 11-13, 15 and 18-20 August 2025

Before: Employment Judge Maidment

Members: Mrs N Arshad-Mather
Mr R Webb

Representation

Claimant: In person

Respondent: Mr G Price, Counsel

JUDGMENT

1. The claimant's complaints of ordinary and automatic unfair dismissal fail and are dismissed.
2. The claimant's complaints of having suffered detriments because of protected disclosures fail and are dismissed.
3. The claimant's complaints of direct race discrimination and race-related harassment fail and are dismissed.
4. The claimant's claim seeking damages for breach of contract fails and is dismissed.

REASONS

Issues

1. The claimant was employed by the respondent as an associate professor of law from January 2022 until his dismissal in April 2024 which the respondent maintains was on the grounds of his gross misconduct arising out of inappropriate behaviour towards a student.
2. The claimant brings a claim of ordinary unfair dismissal. He also contends that his dismissal was automatically unfair, the reason or principal reason for his dismissal being his making of protected disclosures. He additionally maintains that his dismissal was an act of unfavourable treatment because of his race or race-related harassment. The claimant is black and of Nigerian national origin.
3. The claimant also brings a number of complaints of whistleblowing detriment and complains that detriments were also suffered because of or related to race (direct discrimination and harassment). Those detriments relate in part to actions and events which specifically led to his dismissal, including aspects of the process adopted by the respondent from when the allegations of misconduct against him arose on or around 13 June 2023. A separate series of alleged detrimental treatment relates to events predominantly occurring in and around October 2022. Issues arise as to the tribunal's jurisdiction in terms of applicable time limits, depending on its factual findings.
4. The claimant was dismissed without notice and separately seeks damages for breach of his contract of employment.
5. At the outset of the hearing, the tribunal went through the list of issues which is appended as an Annex to these reasons and which was confirmed by the parties to be an agreed list on the basis that the breach of contract claim needed to be added to it. There was an obvious typographical error in terms of the date of whistleblowing detriment 5.1.2 in that they alleged act occurred in 2022 not 2023, the purported protected disclosure at 4.1.7 was a verbal disclosure on 10 October 2022 rather than by email and the disclosure at 4.1.5 related to an email sent to Miss Rogers, copied to others. The claimant said that he understood that this was the entirety of the issues the tribunal would be determining.

Evidence and applications

6. The tribunal had before it a final hearing bundle numbering 1426 pages. The claimant said that those pages from page 1405 had been added relatively recently and he questioned the provenance of the documents. He accepted, however, that he was able to deal with any questions arising out of those documents in evidence. The claimant was also relying on documents in a 244 page supplementary bundle which he had prepared. The tribunal confirmed that it had also received from the claimant an additional payslip in respect of June 2025. The tribunal made it clear that it would not be reading the entirety of either bundle, but would need to be referred in evidence to relevant pages. Various versions of a chronology and cast list had been provided and the versions for the tribunal to consider were agreed between the parties. An anonymity order and restricted reporting order was (in respect of the claimant) in place up to the conclusion of the liability hearing. The identity of student A who was said to have made the allegations against the claimant was redacted together with that of 2 student witnesses who supported her.
7. The claimant had made an apparent application to the tribunal shortly prior to the hearing which related to him having by now suffered from long-term depression. The tribunal clarified and the claimant confirmed that he was not seeking to amend his claim to include one of disability discrimination. There was an issue discussed regarding some documents in the bundle relating to the outcome of an application the claimant made for a professorship. The claimant's position was that these might be relevant to remedy issues in terms of the claimant's level of income had he not been dismissed.
8. The tribunal spent the rest of day 1 privately reading the witness statements exchanged between the parties and relevant documentation. It heard evidence on day 2 on behalf the claimant, firstly from Dr Irekpitan Okukpon, a lecturer in law at the respondent. A witness statement had been prepared on her behalf, but she was willing only to confirm the veracity of some of the paragraphs contained within it. The claimant was permitted to adduce evidence from supplementary questions of her.
9. After her evidence, the claimant directed the tribunal again to documents in the final hearing bundle relating to his application for promotion to the level of professor and the minutes of the professorial promotion committee on 24 April 2024. The respondent explained, as already alluded to, that those documents were included on the basis that they could have potential relevance to remedy issues i.e. a contention that if the claimant had not been dismissed, he would have been promoted. The claimant's original claim form had been submitted in January 2024 and he had been allowed to amend his claim to include his dismissal on 25 April 2024, a day after the professorial committee had met. There had been no separate application

regarding the professorial appointment. The tribunal understood that this would be a new issue, but the claimant, it was noted, was referring to the documents, not making any application to amend. It was explained that he could certainly cross-examine witnesses on their involvement in the professorial application and dismissal decision-making. He was also at liberty to make an application to amend. No application was made by the claimant.

10. The claimant then commenced his evidence. At the start of day 3 the evidence of Dr Victoria Nalule, on behalf of the claimant, was interposed. She is employed by the respondent as a law lecturer. In circumstances where she had misunderstood the requirement for her to attend on particular dates pursuant to a witness order, she was allowed, without objection from the respondent, to give her evidence by video. When referred to what was purported to be her witness statement, she said that she had had no involvement in producing it and had not authorised its disclosure. She was able to confirm as accurate notes of an investigation meeting with her in respect of a grievance raised by the claimant. Again, the claimant was allowed to adduce evidence by way of supplementary questions, before Dr Nalule was cross-examined.
11. The cross-examination of the claimant continued from 13:25 on day 3. At the start of day 4, the respondent submitted additional documentation relating to Dr Nalule's evidence regarding the treatment of her own promotion application. These were matters upon which, as the claimant accepted, Prof Emeseh could be cross-examined. The claimant accepted the inclusion in the evidence of these documents, but not that they were relevant.
12. Having dealt with such issue, the evidence, on behalf of the respondent, of Mrs Eleanor Clyde-Evans, associate director of engagement, development and communication at the respondent, was then interposed due to her limited availability. The claimant's cross-examination resumed at 11:30. The tribunal was unable to sit on Friday 1 August due to availability issues of its own.
13. The claimant's evidence was concluded at the commencement of day 5, on Monday 4 August, with questions from the tribunal and the claimant's effective re-examination of himself, for which the tribunal had given him an allowance of 30 minutes which he met.
14. On the claimant's behalf the tribunal then heard from Mr Boateng Clinton, one of the claimant's former students and then from Dr Solomon Eбенуwa, a senior lecturer in computer science at the Greenwich University, London.

15. After his evidence, the claimant referred to having audio recordings of a conversation he had with Prof Emeseh on 6 October 2023 as relevant to protected disclosure 4.1.4. The tribunal accepted that such recording could be admitted as evidence and listened to by the tribunal having considered the representations on behalf of the respondent as to prejudice, the claimant's disclosure being said to be an ambush and a selective disclosure. The tribunal accepted the claimant's undertaking that he had no other audio recording of any conversation. The tribunal asked for transcripts of the recordings to be produced which they subsequently were and were admitted as further evidence.
16. The claimant then revisited the aforementioned documentation relating to the decision of the professorial promotion panel. The claimant sought leave to amend to add the decision of the panel as a further whistleblowing detriment and an act of unlawful victimisation pursuant to section 27 of the Equality Act 2010. The claimant had not thought how the victimisation complaint might be pleaded, but alighted on reliance, as a protected act, on his email to Miss Rogers of HR on 7 November 2023.
17. The claimant said that he was first aware that he might have such additional complaints on 18 April 2025. He had emailed the respondent's solicitor on 20 April referring to the application. He had contacted the Employment Tribunal on 29 July referring to this not being in the list of issues. As recounted, on the first day of the tribunal hearing on Monday 28 July, the claimant had confirmed that the list of issues represented the entirety of the issues for the tribunal to determine and confirmed that there was no application to amend. The issue had been raised again on 29 July but identified as a point going to remedy only. The claimant said that he had first seen the relevant documentation in the final hearing bundle on Friday 18 April, although he had not properly turned his mind to it until 20 April. The respondent opposed the claimant's application to amend. In terms of prejudice, it referred to the tribunal needing to hear on the issue evidence from Professors James, Priest and Sivarajah, none of whom dealt with this matter in their witness statements. The claimant had been aware for some time that he had not been appointed to the role of professor and had amended his claim indeed after the decision not to appoint him had been taken. The documentation he would now seek to rely on had been disclosed in February 2025 and, even if the claimant was only properly aware of its significance from April 2025, no application to amend had he made prior to today, 4 August.
18. When deciding whether to give a party leave to amend its pleaded case, the tribunal may take into account the guidance in the case of **Selkent Bus Co Ltd v Moore [1996] ICR 836** where the relevant factors were said to include: (1) the nature of the amendment: is the amendment the correction

of clerical and typographical errors, the addition of factual details to existing allegations and the addition or substitution of other labels for facts already pleaded, or the making of entirely new factual allegations? (2) The applicability of time limits: if a new claim is introduced by the amendment, is that claim out of time and, if so, should the time limit be extended? (3) the timing and manner of the application: an application should not be refused just because there has been a delay in making it, although delay is a relevant factor. The prominence of that authority has been recently re-emphasised by Mrs Justice Eady, President of the EAT in the case of **Walsall MBC v Oliver EA- 2023-001400-BA**. The tribunal notes the emphasis placed in the case of **Vaughan v Modality Partnership [2021] ICR 535** on the balance of prejudice as between the parties when deciding applications to amend. The tribunal may consider what the real, practical consequences of allowing or refusing the amendment will be.

19. The tribunal refused the application to amend. This was a wholly new complaint. The claimant had been aware for a long time that he was not going to be appointed to the role of professor with the respondent and had clearly understood that there might be an issue as to remedy arising out of his likely career progression. Even if the claimant had only been aware of grounds for the amended claim on 18 April 2025, no good reason had been provided for the delay in making an application to amend, indeed first made on this day, 4 August 2025 after the final hearing had started. The balance of prejudice to the respondent outweighed the prejudice to the claimant in not being allowed to bring this additional claim. Again, the claimant did not think to bring a claim earlier and was content to rely on this as a remedy issue only. He clearly has a significant number of claims which the tribunal is proceeding to determine, not least those arising out of the termination of his employment. If the amendment was allowed, the respondent's witnesses would need to give evidence about a process which occurred around 17 months previously where there was no internal complaint at the time and where there was a significant risk that the current hearing might be delayed causing the tribunal hearing to go part heard and the current claims only to be determined after a delay of some months.
20. On day 6, the tribunal heard, on behalf of the respondent, from Prof Emeseh, head of the school of law at the respondent. Her evidence was concluded on day 7.
21. At the commencement of day 8 the claimant raised an issue of an incomplete screenshot of the respondent's internal HR system confirming a probation review. The respondent subsequently provided a complete version which the claimant accepted. The tribunal then heard from Dr William Martin, deputy dean of the faculty of life sciences at the time of the relevant events. The tribunal did not sit on Friday 8 August as no witnesses were available to be heard.

22. On day 9, Monday 11 August, the tribunal heard from Prof Sankar Sivarajah, dean of the school of management at the relevant time, though no longer employed by the respondent. He was followed by Prof Martin Priest, dean of the faculty of engineering and digital technologies at the relevant times. Mrs Julia Cressey, director of undergraduate studies in law prior to her retirement from the respondent in August 2024, then gave evidence.
23. On day 10, the claimant raised a need to amend his whistleblowing detriments. There was no objection to an amendment to detriment 5.1.11 to refer to Dr Wilmot having “suggested” rather than concluded that the matter should proceed as a formal disciplinary process. The tribunal accepted that detriment 5.1.10 which related to consideration of one of the allegations at the disciplinary hearing already extended to the allegation being found against the claimant at the disciplinary hearing. The tribunal then heard from Miss Kate Rogers, senior HR business partner and Dr Natalie Victoria Wilmot, formerly deputy head of the school of management who had left the respondent on 31 October 2023. She gave her evidence by video due to an injury she had recently sustained. That evidence was concluded on day 11. The tribunal then heard from Dr Fiona Cosson, head of the school of social sciences, her having joined the respondent in November 2023.
24. The tribunal did not sit on Thursday 14 August due to lack of witness availability. On day 12, Friday 15 August, the tribunal heard from Prof Robert Stuart James, dean of the faculty of life sciences.
25. The tribunal received from the parties their written submissions on day 13. They each supplemented those submissions orally within a time allowance of 40 minutes each. The tribunal then commenced its deliberations which were concluded by day 15, on which date judgment was given to the parties.
26. Having considered all relevant evidence, the tribunal makes the factual findings set out below. The facts are set out chronologically for the most part. The facts have been found on the basis of the evidence as a whole. Its findings on later issues may have influenced its findings on earlier ones. A significant amount of evidence has been heard and considered. No doubt, not every piece of relevant information is set out in the tribunal’s reasons.
27. Whilst a litigant in person, the claimant is a legal academic of some seniority, who taught employment law and has described himself as a barrister who is representing other individuals in an employment tribunal elsewhere. There have been times within the hearing where the claimant has put forward propositions, including to witnesses, which were considered by the tribunal to be questionable and which were necessary to be raised

and discussed with him, not least so that he could understand how the respondent would be putting its case and where there were issues upon which the tribunal would require some persuasion. These have largely related to the question of what amounts to evidence. The claimant believes that if there is no third party or documentary corroborative evidence for an event, then there is no evidence probative of the event having occurred. Notes of interviews are not probative of the interview having occurred without evidence even to the extent of a recording of the actual interview. If there is an allegation referable to a particular date, then there can be no finding that, for instance, words were said as alleged but on a different date. If allegations were not pursued under the correct process, then there can be no allegations capable of determination. If a student has not lodged and signed off on a formal student complaint, there can be no complaint from a student. The claimant did not alter his position.

Facts

28. The tribunal seeks to address the factual issues chronologically in so far as practicable. The factual findings are nevertheless based on the totality of evidence before the tribunal. Determinations on later matters in the chronology may inform the tribunal's conclusions on earlier matters.
29. The claimant commenced his role at the respondent as associate professor in its School of Law from 10 January 2022. He is Black and of Nigerian national origin. The head of school, Prof Emeseh, who shares his characteristic in terms of colour and national origin, had been one of those on his interview panel. His appointment was subject to a standard 9 month period of probation. At first, he concentrated on teaching, but additional responsibilities for research were added after around 3 months.
30. The claimant, as alleged in a subsequent grievance, said that Prof Emeseh rushed into his office around March/early April and angrily reprimanded him for sending a group email to staff announcing his role as research lead. Prof Emeseh denies this occurred pointing to a physical disability affecting her mobility which means that she does not rush anywhere. She said that her office and the claimant's were far apart with a long corridor and two sets of double doors between them. She said there was no reason for her to take issue with the claimant introducing himself in this way, especially as she had already informed colleagues about him taking on this role at a school meeting the day before.
31. The claimant further alleges that she rushed into his office on 8 April 2022. Prof Emeseh's evidence is that she was on holiday in Nigeria on the day and next saw the claimant on 14 April. They then had a conversation about colleagues being asked to input their research activities into a shared document, a suggestion by the claimant which reflected a practice adopted in a previous employment in Coventry. Prof Emeseh explained that some were uncomfortable with sharing this information. The claimant disagreed with the suggestion that the claimant be sent information directly by colleagues. Prof Emeseh denied shouting at the claimant, opening the door

suddenly and launching into the discussion without any form of greeting, as was put to her in cross-examination.

32. In so far as the allegation is of Prof Emeseh “rushing” to or into his office, it is not accepted. The claimant’s account does not chime with Prof Emeseh’s physical impairment. Nor is it likely that she would have been angered as described by the claimant’s actions particularly, early in his employment and when new to his role. Prof Emeseh disagreed that his approach to collecting research information would promote collegiality rather than anxiety, but the claimant’s proposal was clearly well intentioned.
33. The claimant says that on 25 April 2022, Prof Emeseh told him that she would not sign off the claimant as having successfully completed his probation because she was not comfortable with anyone who wants to show that they were experienced. Prof Emeseh denies that such meeting took place. She had hoped to have a meeting that day, but the claimant did not attend as Prof Emeseh was expecting. She telephoned him and he explained that he was currently on his way to Manchester. The evidence, during an internal grievance process, was that a meeting had been arranged to discuss the allocation of supervisors, but the claimant was unavailable. Prof Emeseh told the tribunal that there were already a lot of experienced academics within the school and she had made a business case for the appointment of an associate professor because she wanted someone with experience. The claimant was given the role to lead on research over colleagues already within the school because of his research experience. It was in the respondent’s interest to have experienced staff.
34. The claimant told the tribunal that she wanted to control and oppress him and not give him the freedom to be the research lead.
35. Prof Emeseh’s evidence is preferred. The evidence is of no meeting on that day. The comment attributed to Prof Emeseh is unlikely to have been made in the full context described. It is not credible that she would take the position alleged. and later to the third all fourth lecture sometime in September 2022
36. The claimant’s first probation review meeting took place on 16 May 2022 with Prof Emeseh. Prof Emeseh’s uncontested evidence was that she did not personally schedule in probation meetings, but left that for her personal assistant, Sukhchan Heer, to arrange with the academic concerned. As they discussed aspects of the claimant’s performance, Prof Emeseh typed her comments onto a standard probation form on her laptop. A final section 5 was reserved for the employee’s comments and the claimant agreed that he had been responsible for that wording. The intention then was that the form was submitted/uploaded to a HR sharepoint.
37. The claimant did not dispute the contents of this form although he said he did not receive an email from HR to confirm the discussion and Prof Emeseh had not given him a copy to retain. The claimant was rated as excellent under the categories of service delivery, teamwork and personal qualities. He was rated as good under attendance/timekeeping, communication skills, level of contribution and overall performance. He agreed that Prof Emeseh

had told him that he was doing well. This is not consistent with the alleged earlier behaviour of Prof Emeseh towards him.

38. Whilst receiving the positive rating under communication skills, Prof Emeseh included in the form that, he was to have sensitivity about how communications might be perceived by colleagues (with regard to his role as research lead) and students. He was told to ensure inclusivity at all times. The claimant agreed that he was told this at the meeting but it came as a surprise as there had been no prior discussion regarding his communication style. He thought that it was inconsistent to receive this criticism yet be rated as good under the heading of communication skills. He wanted Prof Emeseh to show him emails from staff saying that they were unhappy with his communication style. Prof Emeseh told the tribunal that she had spoken to the claimant previously about his tone and tendency to talk over people. She had advised him to be gentler in the way he communicated and responded to things in meetings including in his tone with her and that he should allow people to complete statements before he spoke. The tribunal observes from the audio recording referred to below a tendency of the claimant to talk rather than pause and listen.
39. In June 2022, an issue arose regarding the performance of business school students, who had enrolled on the claimant's employment law module. In Prof Emeseh's absence abroad, Dr Kapsis was acting as head of school and contacted her about an issue which had arisen with the postgraduate employment law module marking.
40. The claimant emailed the cohort of students on 13 June 2022 saying: "You people are abusing the privilege I gave you. Please don't send me any other message as I will no longer respond unless it is constructive ... Most of you disappointed me." The claimant told the tribunal that he referred to it being the students' privilege that he had decided to respond to their concerns when he was on leave. He did not accept that there was anything intemperate in the language he used. He said that he was not being too negative. He was saying that they had not done well and that he was disappointed.
41. Following the aforementioned message the claimant sent to students on 13 June, Dr David Spicer, programme leader for the human resource management program in the school of management, contacted Dr Kapsis and Prof Emeseh raising concerns expressed by a lot of the non-law students taking the module including regarding a high failure rate, the quality of feedback received, that elements have been missed in the marking and in respect of the tone of the claimant's above message. He was effectively summarising the concerns which had been expressed to him by the student cohort. He said he was seeking assurance that their papers had been moderated and queried whether there had yet been a review by an external examiner.
42. Prof Emeseh emailed the claimant on 15 June forwarding David Spicer's email and saying that an initial review had taken place and it had been decided to remark the module as part of their oversight and quality assurance process. Mrs Cressey, director of undergraduate law studies,

and Dr Ilias were to act as second markers. The claimant was given the text of a message to put out to students saying that the marks released were provisional and subject to the usual review process of internal and external moderation.

43. Prof Emeseh explained to the tribunal that the law students sitting this module did so by way of distance learning where everything was recorded and guidance on how to answer questions was accessible. That was not the case for students attending the module on campus, such as those from the school of management. Attendance levels had in fact been low. Nevertheless, it was considered that the school of management students might not have been aware of what was expected of them in answering the questions. A moderation had, therefore, been carried out which showed that the non-lawyers had responded to questions in a way which was not expected, but was still an appropriate response to the questions put. To be fair to the students, if they responded in a legitimate way, they should have been assessed on the basis of that being an acceptable way of answering a question. Dr Kapsis had tried to deal with the issue, but found it to be a bigger problem than he realised which is why he reached out to Prof Emeseh. They met and Dr Kapsis was asked to involve the associate dean for learning and teaching. They came to the conclusion that the issue was not that the marking was too strict - the issue was around how the students had answered the question. Simply uprating marks across the board did not address the problem. Students who had answered well should get more marks. Prof Emeseh noted that on the re-marking some people achieved the same mark as before.
44. The claimant responded in a "personal note" to Prof Emeseh on 15 June saying that: "Remarking is just to go round the process." He said that the marking was wholly accurate. He suggested marking adjustments to assist this cohort as they were non-law students. He said that this would make sure that the results were not overinflated and equally reduced the failure rate. He said that the only difference remarking could bring was that those students "that 'did not' deviate in their answers, may be awarded higher or lower marks depending on different markers grading pattern. I have not seen where a person who did not address the question asked is being passed." Prof Emeseh told the tribunal that there was an urgent need to complete the remarking. The claimant wanted to further discuss this further, but she said that they could not - the primary and urgent concern was to get the marking done. Afterwards they could sit down and review the issue.
45. Prof Emeseh emailed the claimant on 21 June with a spreadsheet following the remarking saying that these results would now be sent for external review/moderation with the reviewer being given both the first and second set of marks.
46. The claimant responded that evening to her ("privately: may be off the record") noting what he said were a series of discrepancies and inconsistencies in some individual scripts.
47. As already referred to, Dr Kapsis and Mrs Cressey were involved in the remarking. Dr Kapsis had taught employment law and been an external

examiner on the subject. Mrs Cressey had been that module leader up to around 3 years previously and had also been a legal practitioner before working in academia.

48. When put to the claimant that he did not say the remarking amounted to a violation of standards or policies, he said that those were his thoughts. He said that his own marking was accurate. He agreed that in his email of 15 June he did not say that there was a breach of any legal obligation. The claimant has asked the tribunal to consider the Higher Education and Research Act 2017. This legislation places obligations on the Office for Students, rather than any individual university. The claimant confirmed to the tribunal that he did not refer to any legislation in his communications with the respondent. It remained his position that, because he referred Prof Emeseh back to this correspondence in October 2022, she insisted that he teach on the contract law module (an allegation referred to below) even though he said he was not qualified to do so. His case was that she was intentionally damaging both him and the students.
49. The claimant attended a further 6 month probation review meeting with Prof Emeseh on 8 July 2022. Prof Emeseh met with the claimant that day to discuss the issue of the employment module remarking after the claimant's return from annual leave. She emailed him on 5 July about scheduling a meeting to discuss concerns that had been brought to her attention since the release of the provisional results. The claimant responded that he preferred to conduct the meeting remotely because he was not feeling well and asked if he could be provided with details of the concerns. Prof Emeseh responded that this needed to be a face-to-face meeting. As regards the concerns, she said that these were first raised in David Spicer's email into which he was copied. Further issues regarding communication, respect and support provided to students had been raised with her and she would share them with him at the meeting.
50. Prof Emeseh went through the exam issue which had arisen explaining that she had had a short time to respond. She said to the tribunal that she was quite robust in her explanation to him. The claimant's position was that the high failure rate was the issue and this was attributable to the students not attending classes and not following his guidance. She went through comments she had received from Mrs Cressey as programme leader. Mrs Cressey had felt that the claimant had not addressed some concerns she had raised after the second marking and that the claimant had not confirmed the final marks with her prior to their release. This part of the meeting concluded with the claimant saying he had learnt a lesson. Having concluded that discussion, Prof Emeseh then asked him if he was ready to move straight into a review of his probation, noting that this was due. They agreed to continue and complete the meeting as a probation review. She subsequently noted (and thought that she had saved) their discussion regarding the remarking exercise within the probation review document. The claimant accepted that she had asked if they could now move on to do his six-month probation review and he had said yes. He told the tribunal, however, that he never agreed to "the negativity".

51. There is some controversy about the document recording the discussion. The claimant maintains that it is inaccurate. Prof Emeseh has explained to the tribunal that she thought that she had successfully uploaded the original document which was completed at the meeting to HR. However, she subsequently discovered that there had been some form of computer glitch which had meant that the upload was not successful. Where an upload fails, the document is otherwise not saved anywhere else on the system. She said that she therefore completed the document which is before the tribunal in April 2023 so that there was a record of what had been discussed the previous July. The claimant disputes the accuracy of the document submitted only in April as an attempt to reconstruct the July meeting.
52. The claimant's communication skills were rated as requiring improvement. Prof Emeseh recorded speaking to the claimant about considering how emails may be received by others and to ensure that his emails were respectful at all times. She referred to the aforementioned email to students in June 2022. The claimant accepted that this was discussed at the meeting in July 2022.
53. After overall performance, which was rated as satisfactory, Prof Emeseh recorded: "... His communication style and the serious issues which arose from the marking of employment law and the subsequent poor communication with students has raised important concerns. [The claimant] appears to have understood the concerns, and the need to improve on these matters. I have set some clear targets for [the claimant] to achieve in this regard. This will involve reviewing his work through another teaching and marking cycle. [The claimant] has agreed to this."
54. The claimant agreed that these matters were discussed, but at a meeting which immediately preceded and ran into the probation meeting. Having discussed the issues he said that they remembered that he was at the six-month point, so they started a probation review in which he said that no issue was raised against him. He was unaware that he had to complete another marking cycle before he could pass his probation and that therefore his probation was extended beyond the initial period of 9 months.
55. There was no dispute that Prof Emeseh was typing into her laptop during the meeting. She passed the laptop over to the claimant for him to type his comments in section 5. The wording in the document prepared in April 2023 purporting to reflect what was said in July 2022 did not, the claimant says, contain wording he had added where he said that overcoming the employee manager relationship was a "Herculean task". He says that Prof Emeseh was not happy with his wording and said: "do you want HR to blame me". She then said that she had submitted the form. Prof Emeseh did not accept that she altered or asked the claimant to alter the wording in section 5. From her point of view, she wanted to be clear that there was an agreed extension of the probation as otherwise, complaints had been brought to her and, if there was no consensus about an extension of probation, she would have had to have arranged for the matter to be taken to a capability panel. She considered that the claimant only started in January. This was the first marking cycle and she wanted to give him the benefit of the doubt regarding

a lack of understanding of the processes. Therefore, she thought she had appropriately dealt with the matter through the extension of probation.

56. Prof Emeseh's evidence was that it was clear, not least from the reference to the need to complete a further teaching cycle, that he had not passed his probationary period which was to be extended. The claimant had wanted to count the exam resits as the next marking cycle, but Prof Emeseh's view was that this would involve too small a sample of students.
57. The claimant's case was that he did not learn of this extension until he contacted HR in October. It appears that discussion was prompted by a message generated from HR on 11 October 2022 saying that his 9 month probation date was due on 10 October and asking him to speak to his manager to check "where your probation is up to." The claimant said that as a result he spoke to Professor Emeseh who told him that his probation had not been passed because of the exam marking issue. The claimant had said to her that there was no issue with his marking, though again he agreed before the tribunal that the concerns around the marking had been discussed with him in the meeting which led onto the probation meeting in July 2022.
58. Prof Emeseh gave a full and convincing account of the meeting. There is no dispute that a significant issue arose in respect of the employment law module marking which on the evidence was regarded as an issue going to the claimant's performance. There was a logic to giving the claimant an opportunity to demonstrate his competence through a further marking cycle. The claimant raising the issue of his probation in October appears to have been prompted by a flag on the HR system that his probation was due to be completed in October. That is how matters looked on the system given the failure to upload the July review. The tribunal is unconvinced that the claimant would have raised the issue had an apparent discrepancy/inconsistency not emerged. The claimant takes the view generally that if something has not been confirmed in writing to him and cannot be independently evidenced, then it has not occurred. However, as seen from the first probation review with which the claimant was content, it was not Prof Emeseh's practice to generate any follow-up messages regarding probation decisions or, for instance, set any additional action plan beyond what was provided for in the probation document itself.
59. On or around 7 October 2022 the claimant asked Prof Emeseh to refer to his June email saying that the remarking which led to students who failed being passed and even awarded higher grades was not merited. The tribunal has referred already to the remarking exercise affecting the school of management students sitting the claimant's employment law module. Prof Emeseh says that this meeting never happened. PID 4.1.6. The tribunal has noted the account Prof Emeseh gave in the subsequent grievance investigation. She explained that on 7 October 2022, the claimant came to her door but she could not go to the door as she was acting as the external examiner on a viva panel. After she had concluded, she saw that the claimant had sent an email to say hello. She called him back. The call was unanswered, so she sent him an email explaining that she had been in a viva. The claimant says that the performance of distance learning students

and the remarking and release of employment law results was discussed at this time, but Prof Emeseh's evidence was that these matters were discussed in a meeting on 8 July 2022. The claimant was alleging in his grievance that Prof Emeseh said that he had released the results during the weekend because he wanted the students "to commit suicides when no one will rescue them." Prof Emeseh was emphatic in her denial of making such a comment and her detailed evidence in terms of a lack of meeting on 7 October 2022 is preferred to the claimant's account.

60. On 9 October the claimant was emailed by a student concerned that the timetable did not include any tutorials on particular subjects. He was her personal academic tutor ("PAT"), with an element of pastoral responsibility for her beyond his pure teaching role. The claimant responded stating; "Your message is unclear/faint; please send to Julia... Also, your message has no subject." This was copied into Mrs Cressey. The claimant did not accept before the tribunal that his response was curt and unsupportive.
61. Mrs Cressey responded to the claimant on 10 October saying that timetabling queries needed to be referred to admin and there was no point just referring it to her. In a follow-up email shortly afterwards she said that whilst he was right to point out that the student's email was difficult to read, she did have concerns about the tone of his reply particularly if this was his first interaction with the student as her PAT. Regardless of that and given Prof Emeseh's comments at a recent staff meeting about appropriate communication with students, she said that she did not think his email appeared as helpful, encouraging or welcoming as they would normally expect. She asked him to consider how he thought his email to her read. Mrs Cressey told the tribunal that she thought the email to be "a bit brusque" and she referred it to Prof Emeseh because of what she had recently said about appropriate communications with students and because there had been some issues in the past regarding the claimant's communication with students. She felt she should point the issue out to the claimant and copy in Prof Emeseh.
62. The claimant responded maintaining that his reply to the student was appropriate and precise with no unwelcoming undertone. He said he was surprised she could read such a meaning. He said that most of the time her messages were too wordy and sometimes she took a long time in replying to students and they ended up coming back to him.
63. The claimant accepted in cross-examination that by October 2022 his relationship with Mrs Cressey was somewhat fractured.
64. Prof Emeseh asked if she could have a chat with them both in an email of 10 October and asked for a meeting to be set up. The claimant believes that she also met separately on 10 October with him and Mrs Cressey. Prof Emeseh has no recollection of those meetings and the email saying that a meeting would be arranged does not suggest an intention to see each of them on 10 October.
65. Sukhchan Heer cancelled a "PDR Meeting" in the Outlook calendar for the claimant on 10 October. Prof Emeseh told the tribunal that she was having

PDR meetings with all staff in the October, but as the claimant had not passed his probation, he was not intended to be part of those. The claimant says that for a final probation meeting, the term PDR was appropriate. Whatever the meeting had been originally diarised as, it did not occur. As already referred to, the claimant received an email from HR on 11 October saying that his nine-month probation date was due on 10 October 2022. He was asked to speak to his managers to check “where your probation is up to”.

66. The claimant says that 10 October was the first time that he had been told that he had not passed his probation. Prof Emeseh’s evidence was that there was no meeting to talk about probation (or anything else) on that day and the claimant was aware from 8 July that he needed to go through another exam marking cycle before his probation could be completed. This was a common understanding. The tribunal has addressed this already. There is no evidence of a meeting on 10 October where the claimant told Prof Emeseh that the marking of the students reflected badly on the academic integrity of the exams – a purported protected disclosure. PID 4.1.7
67. The claimant’s evidence was that Mrs Cressey confronted him in the kitchen saying that she had told Prof Emeseh about his communication with the student and if he didn’t bring evidence to their forthcoming meeting backing up his assertion that she was guilty of poor communication with students the claimant would be “taken to a panel”. Mrs Cressey said that she said nothing like that at all. On balance such threat is unlikely to have been made as described by the claimant. Such a reaction by Mrs Cressey to what had been raised is unlikely. Neither Mrs Cressey nor Prof Emeseh accept that such type of threat was repeated at the subsequent meeting on 14 October. The tribunal accepts that it was not.
68. The claimant met with Prof Emeseh and Mrs Cressey on 14 October to discuss the issues. The claimant brought with him an email from a student who was chasing a reply to a communication she had sent to Mrs Cressey – likely to be on his phone rather than in hard copy form. Mrs Cressey said that she had asked for examples of her apparent communication failures having said that she was sure that there were times when she failed to reply to student emails and that the claimant scrolled through his phone and may have read something out. She did not however see any complaint or example. At the meeting, Prof Emeseh says that she reminded both of them about communicating with students appropriately. The claimant believed this was aimed at him only and there was no basis for any criticism. Prof Emeseh said that Mrs Cressey had said at the meeting that the claimant was saying there were instances where students had complained about her and she had said that the claimant should share them so they could resolve the issue. The claimant believes that he produced the email referred to suggesting a lack of response to a student by Mrs Cressey. Prof Emeseh and Mrs Cressey do not believe that the document was produced at this meeting. When interviewed by Mrs Clyde-Evans as part of the claimant’s grievance, Mrs Cressey said that she was not aware of any direct complaints from students about her.

69. Ms Cressey described herself during the grievance investigation as uncomfortable at the meeting with voices being quite raised describing both the claimant and Prof Emeseh as outspoken individuals. She felt that the meeting became “a bit of a shouting match” but said that no one was standing up and certainly there was no kicking of any chairs. Prof Emeseh believe that the meeting was okay up to the later stages when Mrs Cressey was present. She said that the claimant had raised the issue of criticisms of his communications in relation to his probation review and she told him that they were not there to hear that. In the claimant’s grievance she had described his behaviour as “animated” and stood by that description. The claimant says that he raised the email from HR about his probation being due for completion on 10 October. Prof Emeseh did not recall any such reference.
70. The claimant maintains that on 14 October he also stated to Prof Emesh: “this is like indirect bullying and harassment”. PID 4.1.1. In cross-examination the claimant said that Mrs Cressey left the meeting. Prof Emeseh went to get up but ended up kicking a chair by accident. She apologised for flaring up. She called the claimant back as he was leaving. He said that Prof Emeseh said that she was someone who promoted feminism. She wanted to remind him that he was “manly” and she didn’t know how he treated his wife and family. In response to that the claimant had made the comment about this being indirect bullying and harassment. The tribunal concludes that the claimant did not make the statement he relies on as amounting to a protected disclosure. The claimant agreed that he had not complained to HR about her actions but said that made notes in meetings of what was said and had those notes at home. They have not been provided to the tribunal.
71. The claimant in his witness statement evidence referred to Prof Emeseh kicking a small chair because she was furious. He said that she talked about his family and he pointed out that this was like bullying and harassment in disguise. He referred to her supporting Mrs Cressey including repeating a statement made to him by Mrs Cressey in the kitchen on 13 October. When asked in cross-examination what that statement was, the claimant explained that Mrs Cressey had told him that students had complained to her. He said they raised no complaints with him. She responded asking him “if he thought he was the first BAME staff member in the school and wanted to show that he was clever.”
72. Mrs Cressey’s evidence was that the meeting did become lively and that there was a discussion between the claimant and Prof Emeseh about the tone of the claimant’s communications. This then led to a discussion about communications more generally by the claimant and the claimant raised how that had been part of his probation review. She felt that it was not appropriate for her to be there during that discussion and got up and left.
73. Prof Emeseh told the tribunal that she had in the past raised concerns about the claimant’s tone and how he sounded aggressive. She believed she had referred to hyper-masculinity and how his behaviour makes people feel. She did not know if she said that during this meeting, but if she did, it would be consistent with what she had said on other occasions. She said that she did

not say that the claimant was manly or refer to his wife. She said that she had raised issues regarding the patriarchy in her own community and had included that as part of discussions within the school.

74. The claimant maintains that Prof Emeseh extended his probation from October 2022 to August 2023 because he said to her on 14 October 2022 that “this is like indirect bullying and harassment”. When put to the claimant that the decision to extend his probation was taken in the July prior to such alleged disclosure he said that he had never previously been told that his probation was extended. The claimant’s evidence is suggestive of him disputing the decision to extend his probation rather than expressing an understanding that there had been no extension.
75. The claimant says that on or around 15 October 2022, Prof Emeseh failed to hold Chris Taylor to account for his inappropriate emails to the claimant. The tribunal understands Dr Taylor to be a white academic.
76. The claimant emailed Dr Taylor and others on 15 October giving them their allocated themes for talks they were to give on particular dates to the postgraduate cohort. Dr Taylor responded asking about the timings of the sessions. After the claimant told him they were at 13:00, replied saying sorry but that he was otherwise engaged at that time and date querying whether they had agreed the date/topic previously. The claimant replied that the sessions had always been on at that time and that Dr Taylor had agreed to present on the topic of ethics. He said he could change the date, but with the same time. Dr Taylor responded that it was correct that he had agreed to present a seminar on ethics “but it is customary to agreed dates and times with colleagues in advance. It is not for you to ‘allocate’ to me in this way. Similarly, it is not for you to allow me to ‘reframe’ any presentation. I expect a greater degree of courtesy, collegiality and cooperation in the future.” The claimant replied saying that he did demonstrate collegiality by sending a series of messages for topic choices and dates, including individually.
77. It was the claimant’s case that communications between staff were of a comparable nature to those between staff and students. Prof Emeseh, who had been copied in on some of this correspondence, told the tribunal that she did speak to Dr Taylor over the telephone about the tone of his communications. The tribunal accepts that evidence. Prof Emeseh had asked him to please tone down his communication with other members of staff and ensure that there was no repetition. She thought that was sufficient to deal with the situation which had arisen. The claimant says there is no evidence of that call. There is not, beyond Prof Emeseh’s statement. For her, the situation was different from that which had arisen between the claimant and Mrs Cressey in that Prof Emeseh said she had just given the message at a staff meeting about the need to support students and she was faced with 2 senior colleagues raising communication issues with students. She needed to speak to them to ensure there was a common understanding. That is why she arranged a meeting to speak to them together. In other situations, she would not necessarily do so and had discussed with the claimant she said on previous occasions issues regarding his tone of communication without anyone else being present.

78. The claimant also says that on or around 14 October 2022 Prof Emeseh refused his request to be removed from the contract law teaching group.
79. The claimant's evidence is that around June/July 2022 he had said that he did not want to be in the contract team during a school awayday. He said that Mrs Cressey, the contract law module leader, had wanted him to be part of it but that he had told Prof Emeseh that he did not want to be in the team and she had agreed to his request. The claimant told the tribunal that contract law was not an area of his expertise. Prof Emeseh had no recollection of any discussion with the claimant on this subject. She explained that in an open forum, teaching allocations were displayed and agreed amongst the academic staff. The allocation was then put on SharePoint having been finalised by a member of administration. When put to her by the claimant that she had met then with Mrs Cressey who said that she was happy for the claimant to be in the team, she said that it was not up to academics who they were happy to be in a team with. She had to manage resources appropriately. She believed that teaching of contract law at an undergraduate level was within the claimant's capability, it being one of the core foundation modules.
80. On 27 July, the claimant emailed Mrs Cressey, copied to Prof Emeseh, saying that he had noticed that in his timetable for the second semester commencing 30 January 2023 he had been allocated contract law tutorials whereas Prof Emeseh had confirmed during the away day that he was no longer in the contract team. He queried whether this was a mistake. Prof Emeseh replied saying: "I don't believe we agreed that. You're still part of the teaching team for contract." The claimant responded: "Thank you for clarifying." The claimant told the tribunal he had decided that he would teach contract law and did not want to create an argument. He said that he had agreed to teach contract law initially because of a shortage of teaching staff.
81. In cross-examination, the claimant said that the decisions taken at this time were not alleged by him to be because of any act of whistleblowing. However, Prof Emeseh repeating the refusal to remove him from contract law on 14 October 2022 was because of his protected disclosures. It was put to the claimant that there was no evidence that Prof Emeseh had ever refused a second request not to teach contract law. The tribunal has seen none.
82. As already referred to, the claimant explained that Prof Emeseh had repeated in October 2022 what she had said in July 2022 about him having to teach contract law because on or around 7 October 2022 the claimant asked her to refer to his June email that the remarking, which led to students who failed and then passed and were even awarded higher grades, was not merited.
83. Prof Emeseh does not accept there was any subsequent discussion in October about the claimant's involvement in teaching contract law. There is no evidence of such further discussion.
84. The claimant says that on or around 10 October 2022, Prof Emeseh informed him that she would not have asked him to apply for the advertised

professor position in the law school. Prof Emeseh had no recollection of that. That date stood out only as the date the conflict between the claimant and Mrs Cressey arose in respect of communications with students. Professor Emeseh told the tribunal that academics still in probation could not be appointed to the position of professor. However, any individual might still submit an application. Each application would be assessed on its merits and the fact someone was still in probation might not be flagged by HR until sometime later in any selection process. Prof Emeseh was not aware that the claimant had applied until she went onto the system and saw his application logged. She had never asked him to apply. She was involved in the selection process. Prof Emeseh's evidence was that she did not then or at any time say that she would not support his professorship application.

85. On 24 October, Prof Emeseh emailed departmental members inviting them to an online presentation which would be made on 26 October by individuals longlisted for a professorship. She referred to there having been a lot of interest in the new role with a strong field of applicants. The claimant had not been advanced to such stage. Following the presentations, the selection panel were to receive a report regarding the thinking of those within the school of law which would feed into the decision-making for a shortlist of 3 successful candidates who were progressed to a final stage.
86. The claimant responded to her by email of 25 October saying that he had applied for the professorial role and expressing concern that there might be a conflict of interest if he participated in the selection of candidates for the same role he had applied for. Prof Emeseh responded thanking him for the email, but saying that she had taken advice from HR and there was no conflict in him being part of the presentations.
87. The claimant accepted in cross-examination that he was not complaining about not being interviewed for the position. He said that on 7 October they had had a discussion where Prof Emeseh said he was not allowed to apply because he was in probation. Effectively, having advised him to apply, Prof Emeseh had said that he would not be considered. Dr Ilias in the school had also applied and had been unsuccessful, albeit the claimant was unaware of that at the time. The claimant agreed with the proposition that if his probation had not been extended, from what he had been told, he could have applied. The lack of consideration he agreed was a consequence of the extension of his probation period. It was pointed out to the claimant that his case was that he was not considered because of a protected disclosure he had made.
88. The claimant agreed that he did not raise any complaint about how he had been treated beyond his internal grievance as will be described. In terms of him not having made any complaint to the employment tribunal, he said that he wanted to retain his job understanding that his probation continued until August 2023 and that the point of dismissal was when most people reacted.
89. The claimant attended a third probation meeting on 28 April 2023 (originally scheduled for 24 April). The meeting was meant to have taken place in March after the completion of the next marking cycle in February, but Prof Emeseh and the claimant were not able to schedule an earlier meeting due

to their unavailability. The document submitted thereafter was, as explained, dated with reference to the earlier 8 July 2022 review. Prof Emeseh's intention was that this April 2023 review would be based on fulfilment of the action points from the six month review. She went on to the system to locate the six-month review and could not find it. She asked the claimant if he could search for it, but he could not locate the document either. She therefore explained that they would have to complete the paperwork again for the six-month review and then complete the nine-month final probation to confirm that what had been agreed at the six-month probation meeting had now been achieved. The claimant's probation could then be confirmed as passed. She said that she told the claimant what she was doing. The tribunal accepts that the claimant was aware.

90. The objectives in section 3 of the form referred amongst other things to the completion of the marking for semester 1 of 2023 on time with a target date of 17 February 2023.
91. In the employee comments at section 5, he agreed that he had typed the words: "As an academic, the approach I took is what I thought will be good and beneficial to students and school vis: in teaching, assessment, written & oral communication, research etc, but some did not exactly reflect the expectation of the University."
92. The claimant's evidence was that he was not responsible for the words which followed: "However, the review with another marking circle was agreed and improvement is a continuous process on the matters raised. I happy with the job and working cooperatively with my line manager. Generally, resources are available to support my work, however, giving a little more for research funding will help."
93. The claimant's evidence was that he had repeated the same comment he said he had included in the early review about it being a Herculean effort to maintain relationships with his manager. He said that, when Prof Emeseh saw what he had written, she had said that if he included that wording she would have to write something else about the problems with the previous marking exercise. In cross-examination Prof Emeseh repeated that having looked in vain for the six-month review on the system, they agreed to do it again and then submitted it. She typed a summary of her recollection of that review and gave it to the claimant for him to complete his section 5. She described the claimant then, in what he typed, as re-litigating issues around the reasons for the student remarking. She said that she would need to give more detail. The claimant looked at what he had written and said that there was no need. He amended his wording and the final version he settled on was what was submitted in the claimant's presence on that day at 18:19:54. The HR system shows the successful submission of a probation review at that time on 28 April. They had then moved on to seek to complete the nine-month probation form which is when Prof Emeseh says she discovered that the claimant had not completed some mandatory training modules.
94. The claimant maintains that he left the meeting at a time before that recorded submission time in annoyance and as he needed to catch a train.

He says that at the time he left he was unaware of the need to still complete the mandatory training modules.

95. Prof Emeseh was interviewed about the probation meeting as part of the investigation into the claimant's subsequent grievance. She said that when they started the meeting she logged on to the HR Service portal to retrieve the probation document completed in July 2022 as a basis for their discussion on whether objectives set had been met. However, she could not find it, finding this surprising as neither of them could locate the document. She realised that for whatever reason, probably a technical glitch or her laptop going off-line, the report had not been submitted. She described it as inconceivable that she would deliberately fail to submit the report given that it recorded their agreement to deal with issues arising out of the marking of the employment module exams. She said that she told the claimant that they had to do the 6 month report again and thereafter complete the 9 month report. She said that she had taken advice from HR that the issue to focus on in this review was the reason for the delay in probation and not any new issues which had arisen since. She had come to the conclusion that the issues in July had not re-occurred in the following marking cycle and as this had been a basis for delaying probation she would sign off the nine-month review and recommend this decision to be confirmed at the next probationary panel. In those circumstances she wrote a brief outline of what had occurred in July and passed the laptop to the claimant to complete his section. When she read what he had written she believed it mischaracterised the events following the release of the employment module marks and focused instead on the issue of failure rates. She told the claimant that she would rewrite her section as a more fulsome report of the events which formed the basis for the decision to remark and the decision that he complete another marking cycle before he could be considered for passing his probation. She noted that the claimant said that she had misinterpreted what he had written and if it was not clear he would rephrase it. She said that he did so and they then submitted the report.
96. The claimant insisted that Prof Emeseh read what he had written, deleted it and rewrote it herself. The tribunal rejects that account.
97. After the April 2023 meeting it was realised that the claimant had not completed some mandatory training necessary for his probation to be signed off. Prof Emeseh emailed him on 18 August 2023 saying that he would recall that at the previous probation meeting they could not complete his probation because he had not completed the mandatory training modules. He had responded to a follow-up email saying that he would have the modules completed by the end of July. She said that she assumed that the training had now been completed. The claimant replied saying that all of the training had been completed.
98. The issue of a potential student complaint about the claimant arose in May 2023. The claimant disputes that the purported communications received from the student are genuine or that they arose unprompted by Mrs Cressey and others – he says that they were invented in an effort to build a case for the claimant's removal. The student was said by the claimant to be a friend

of Mrs Cressey. There is no evidence of a relationship beyond a friendly PAT and student relationship. Ultimately, the tribunal has rejected that the complaints were fabrications. As is explained further below, the tribunal concludes that there was a complaint genuinely made by student A. The claimant's case is that the complaint was invented. If so, it was invented by Mrs Cressey and Prof Emeseh was aware of the fabrication. Ms Shaw was either involved in the fabrication of her notes as a mental health advisor were fabricated. Dr Wilmot was aware of the deception when she lied about receiving confirmation of Ms Shaw speaking to student A. Dr Wilmot would then be lying about having interviewed student A and the 2 student witnesses, a fabrication which must have involved HR. There is no evidence to support such theory. There is no evidence to support the invention of emails and notes by those involved in the alleged conspiracy. The tribunal rejects that there was any such conspiracy. It notes the unrealistically far-reaching nature of a conspiracy which might, if real, have been easily exposed by any number of individuals participating within it. The senior academics said to be involved had no control over what the students might have said. The consequence for any individual found to have conspired in this way would have been likely to be the loss of their own employment. Nor is there any evidence of student A and other student witnesses being groomed to give a false account. Not least given the inconsistencies pointed out by the claimant in the witness evidence of the students, the evidence does not appear to have been at all engineered. The accounts appear to be genuinely at times confused. The tribunal rejects that, in particular, either Mrs Cressey or Prof Emeseh were motivated to frame the claimant as a means of removing him from the respondent's employment. There were far more obvious and easier routes to his removal given his short service and probationary status.

99. Mrs Cressey received an email from student A on 11 May 2023. She was student A's PAT. The student asked if it was possible to get her coursework re-marked "but not by the same lecturer." She said: "I do not mind anyone else grading it but I do not want my current employment lecturer to mark it and I don't want him to mark the second one either. I will explain later to you if you need more information... Please also do not let him know I have contacted you." The relevant lecturer was the claimant. Mrs Cressey's evidence was that she was initially going to reply saying that the student couldn't make any requests regarding who marked her work, but because she was the student's PAT she thought that she ought to call the student and explain the process and find out what the problem was. She thought it would be quicker to just call the student. She did so that day and had told the student that the marking was still ongoing and the student couldn't simply ask for someone else to mark her work. She explained the marking process and that she was the moderator/second marker of the paper so would see it in any event.
100. The note subsequently made of that conversation by Mrs Cressey is set out below but it is noted at this stage that Mrs Cressey says she was told by the student of alleged comments made by the claimant referring to her light skin tone, people from Jamaica dancing like they are making love, suggested hugging her in a dark alley and reported an instance of touching her face and hand in class and asking her to go to his office. Student A said

that she had raised concerns with her mental health counsellor, Emma Shaw. Mrs Cressey's evidence is that she also spoke to Ms Shaw within a few days of 11 May who confirmed that student A had raised issues of concern with her without naming the claimant.

101. The respondent has a separate service and policy as regards the safeguarding of students/vulnerable adults. None of the respondent's witnesses involved in the issue of student A's complaint considered that there had been any safeguarding failure as is suggested by the claimant. Certainly, Mrs Cressey's understanding was that Ms Shaw had spoken to her line manager, but that they did not think any further action needed to be taken as a result of student A's referral to them. They were not aware who the lecturer was and student A had not requested the matter to be taken any further. The claimant's proposition that this was a safeguarding matter and a lack of referral at that early stage made it impermissible to continue a disciplinary process against him was rejected. Indeed, he suggested that Mrs Cressey ought to have refused to continue her conversation with the student on 11 May and directed her to safeguarding. Mrs Cressey considered that as the student's PAT she should be open to listen to her concerns. The respondent considered that there was now a complaint by a student albeit not one made through any student complaints procedure – a complaint which was subsequently dealt with under procedures relating to the conduct of a member of staff.

102. Mrs Cressey told Prof Emeseh that a student had raised a complaint and asked that someone other than the claimant mark her employment law assessment because she had been the subject of sexual harassment – that was considered by Prof Emeseh to be the appropriate label to attach to the allegations on the basis of the information Mrs Cressey had provided. Prof Emeseh asked whether she could speak with the student, but Mrs Cressey explained that at this time the student did not want to be identified. Student A was going to consider her position once her degree was completed and Prof Emeseh agreed with Mrs Cressey that, once the exams were over, she would speak with student A again. Prof Emeseh considered it entirely appropriate and unsurprising that student A would go to Ms Cressey as her PAT with such a matter. She did not understand that the student ought to have been directed to the student complaints procedure and to take action under it. If the student had not been satisfied with how they dealt with her issues then she could have complained through that route. Students commonly raised concerns with their PAT - many of them were dealt with quickly and informally. She did not see anything inappropriate in the student asking for an alternative marker in the circumstances raised.

103. Prof Emeseh was given only an overview of the allegations at the time by Mrs Cressey. She wanted to ensure the (unnamed) student was not at risk, but students were not at this stage attending any teaching sessions.

104. The tribunal has also been referred to a purported note from a mental health advisor of student A dated 1 March 2023. The mental health advisor is recorded as saying: "[student A] has experienced unwanted attention from one of her lecturers. She has said she does not want to take this further

with a complaint yet. She says he has commented on her appearance and invited her into his office even if she has no work to do. She has refused this and is not on her own with him at any point. She leaves the lecture with a friend. She worries that her turning down his advances will affect her grade. I have said she may be able to request a second marker at the time. She has not disclosed who the lecturer is at this point.”

105. The claimant agreed that Mrs Cressey must have been grooming the student then before 1 March 2023 to persuade her to speak to a mental health advisor if indeed she had really spoken to such advisor.

106. The claimant had marked student A's assessments on 9 May although she could not have been aware of that at the time she emailed Mrs Cressey on 11 May. Mrs Cressey was able to access marked scripts and reviewed the claimant's marking of student A on 12 May. Mrs Cressey was, again, the appointed moderator/second marker for this module which meant that she had to review a sample of the exam scripts. Given student A's call, she included this paper in her sample. She considered that the claimant's assessment of student A was accurate, though meriting a single mark higher in one aspect. Mrs Cressey did not tell student A the mark she had been awarded. She denied when put to her that she had been aware that the claimant had marked the student's paper in advance of 11 May and that she had contacted student A to “start a conspiracy”. Ms Cressey denied when put to her in cross-examination that she did not consider that she and the claimant had had any major or serious conflicts. The tribunal has already noted that this gives less than the full story of the state of their relationship. Whilst she had known student A as her PAT she was not a personal friend. She was unaware of any reference the claimant had made to Prof Emeseh about the exam remarking being a breach of academic integrity or that he had accused Prof Emeseh of bullying and harassment. Sometime subsequently she had seen extracts from the claimant's grievance, but only those related to complaints the claimant was making about herself.

107. On 9 June 2023, Ms Cressey emailed student A, who was then on a study programme in Europe, saying that she had reviewed her marks. She thought the email was likely to have been sent following a failed attempt to phone the student. She said she wanted to follow-up about the issues she had raised about the claimant and discuss any next steps. Mrs Cressey took this step as she had discussed she would do with Prof Emeseh and as the student had said that she would make a decision after the assessment period. If the allegations were correct there were potential issues for other students.

108. The student replied by email on 11 June referring to attempted phone calls between them with the reception being difficult. She stated: “in regard to [the claimant], I still think it will be best to take action. Although this doesn't hold much weight, I thought it would be important to let you know that whilst here, someone else did anonymously confide in me about a situation that involved feeling uncomfortable with him, but they felt too shocked and worried that they may have been overthinking it. This person also spoke to a friend because they were not sure how to react and if it

would be better to ignore it because of similar reasons I had and the fact that he “presented himself as likeable to the class.” These reasons are understandable and have pushed me to want to bring this matter further above my own personal experience and it is exactly the reason why I do not want such experiences to continue with anyone else. I would be extremely grateful for any advice on the following steps I should take to attempt to sort this matter out as soon as possible.”

109. Mrs Cressey replied on 13 June saying that she would now confirm to Prof Emeseh that she was happy for them to pursue this. She said: “As previously discussed, I think it would be advisable to make a written note of all the incidents so that this can be referred to. I have also made a note of what you told me.”

110. Ms Cressey indeed, had put together a note of her initial telephone contact with the student. She had made a handwritten note of her first conversation with the student on 11 May which she typed up and added to. Those handwritten note no longer exist – Ms Cressey said that she had put them in confidential waste around the time she left the respondent’s employment. She recorded with reference to student A: “She explained that her first interaction with him was just around the time he started at the Law School when she met him in, I think, the Pemberton building, and she thought his behaviour and comments were odd but thought no more of it. However, when she started her final year module with him there were a number of other comments and incidents. For example, in the class he commented about her “light skin tone” and that did not mean she had to work less hard than others; he also commented about her origins and being “from Jamaica where they dance like they are making love”; he touched her face and hand in class and asked her to go to his office but she did not; in the last class when she put her hands up to hug her female friend as it was their last class he said something to the effect about hugging him like that in a dark alley.”

111. She noted that the student said she had raised her concerns with her counsellor Emma Shaw and she had also asked 2 named friends to stay back with her when she was in the employment law class so she was not the last person there and was not left alone in class with the claimant. The student said that she was happy for Mrs Cressey to contact Ms Shaw which she had. Ms Shaw had confirmed that she had been aware of some of the incidents but had not been told who the member of staff was. Ms Shaw said that she had also raised this with her line manager due to the concerning nature of the behaviour alleged.

112. Mrs Cressey noted student A as saying that she did not wish to pursue this formally at this stage but that she had raised the issue with Prof Emeseh without revealing the student’s name saying that she was “concerned that this needed to be looked into for the benefit of all students as it appeared to amount to allegations of potential harassment and wholly inappropriate behaviour”. However, as teaching was now over and interactions with students were minimal, they agreed that Mrs Cressey would keep in touch with student A and see what her decision was about pursuing this after the assessment period. Having received confirmation

from student A on 11 June that she wished this to be followed up, Mrs Cressey had confirmed this to Prof Emeseh on 13 June.

113. Mrs Cressey noted that she now understood that the student had also discussed these issues with another colleague, Edward Mowlam, about a week after speaking to her and understood that the student was upset, but had told Mr Mowlam that she had already raised the matter.
114. Having been told by Mrs Cressey that student A wish to proceed with her complaint, Prof Emeseh called Miss Rogers, senior HR business partner, on 14 June 2023 to seek HR advice on how she should proceed. She referred to student A as raising “concerns”. Miss Rogers advised that the matter was sufficiently serious that it should be investigated and it was agreed that, as the claimant’s line manager, Prof Emeseh would be the investigation commissioner. HR advice to Prof Emeseh was that she should not talk to student A or talk to the claimant at this stage about the concern raised. Prof Emeseh followed this discussion up with an email later on 14 June (copied to Mr Neil of the student complaints team, on Miss Roger’s advice, so that they were aware of a student issue which was being dealt with under a staff process) attaching the note prepared by Mrs Cressey and email correspondence between her and student A. Prof Emeseh did not consider that this was a matter which was appropriate to separately refer to safeguarding, whether pursuant to the respondent’s safeguarding policy or otherwise. Mrs Cressey had not considered that to be appropriate. Nor did Miss Rogers. Prof Emeseh understood that HR would be well aware of the need to act confidentially. Prof Emeseh refuted the claimant’s suggestion that she had referred the matter to HR because she adopted a comment allegedly made by Mrs Cressey in the kitchen on 13 October 2022 that she would ensure that the claimant was put before a panel if he did not show Mrs Cressey evidence of student complaints against Mrs Cressey.
115. The claimant’s case is that Miss Rogers was “fooled” into believing this was a genuine student complaint.
116. It was also the claimant’s case that Mrs Cressey had made the allegations against the claimant because of his protected disclosures. When put in cross-examination why she would do so in respect of 3 disclosures in October 2022, all to Prof Emeseh, the claimant referred to him being in conflict with Prof Emeseh and Mrs Cressey and his belief that Mrs Cressey was aware of the protected disclosures through regular meetings she held with Prof Emeseh. He agreed that there was no direct evidence of Mrs Cressey being aware. He maintained that Mrs Cressey had groomed student A to make up the allegations and had also told her to involve her friends in making statements against the claimant.
117. The claimant, in his witness statement evidence, referred to Prof Emeseh, around 19 May 2023, referring to him leaving the respondent and saying that she would ruin his career. The claimant has referred to Prof Emeseh in May 2023 inviting him again for a probation meeting and stating: “I know you would like to leave the University”. The claimant said that he responded that if he wanted to leave, why had he applied for the Prof position with the respondent and, in any case, anyone can leave a job if

they find somewhere better to go. It was put to the claimant in cross-examination that within his grievance he did not refer to her saying that she would ruin his career. The claimant said that he repeated several times that she said she would do so.

118. There was reference to this allegation in the claimant's grounds of complaint where he referred to 19 May 2023 and the context being invited for a probation review and a meeting for the assigning of supervisors. Again, there was no reference to any comment about ruining his career. The claimant told the tribunal that he couldn't put everything in his tribunal complaint. On the balance of the contested evidence the comment was not made.

119. When interviewed as part of the grievance, Prof Emeseh said that no further probation meeting happened until August 2023. She was waiting for the claimant to complete his online training modules. She said that, at the school research awayday, the claimant had said something about colleagues undertaking research so they could be attractive to other employers. She said that people looked at him with some surprise and the claimant queried why they were surprised as everyone would leave to go to a better job if offered. Prof Emeseh said that something he had said himself was being falsely attributed to her.

120. The tribunal has seen email correspondence between the claimant and Sukhchan Heer seeking to arrange a final probation meeting in August 2023. Such meeting was arranged for 21 August. As will be referred to, the claimant met with Prof Emeseh on 17 August to be notified of the allegation of student A. He emailed Prof Emeseh on 18 August referring to the probation meeting and asking if it would still go ahead in the light of the issue raised the previous day with the student: "Because you have not done any probation meeting whenever any issue is at stake." Prof Emeseh replied saying that the probation meeting was separate from the student issue. She continued: "You will recall that we had a probation meeting for your 9 month probation sign off some time in March/April that I could not complete because you had not completed your mandatory training modules. You responded to my follow-up email after that in June where you indicated you would have the modules completed by the end of July due to research application you were working on. I presume this is what you mean by me not proceeding with the probation when there is an issue outstanding. I am assuming that the trainings have now been completed."

121. The email referred to from June regarding the online training modules has not been located by the parties, but the reference to it in this email is corroborative of the claimant being aware following the April meeting of the need to complete these modules. The claimant responded to Prof Emeseh's email on 18 August saying that he had completed all of the necessary training. His probation period was duly passed.

122. The claimant says that on 21 August 2023 he stated to Prof Emeseh that the culture of bullying had been allowed to worsen. PID 4.1.2 On that day the claimant met with her for the sign off meeting in respect of his probation. He made no reference to disclosing the worsening of the

aforementioned culture in his witness statement. The note of the probation meeting uploaded to HR on 21 August included the comment that the 9 month probation was delayed due to issues arising from an assessment in the second semester of 2022. Following a review with the claimant, they had agreed specific objectives to be met and to wait for another marking cycle to be completed before completing probation. Prof Emeseh recorded that these had now been met. Following improvements made she assessed the claimant as being suitable for the role although she had discussed with him the need to continue to pay attention to his communication style. The claimant's own comments were recorded as: "I have been working to improve the work I do and the manager – employee relationship until everything is perfect," The claimant accepted that he wrote this but said that there was some additional wording he had added after the comma.

123. Prof Emeseh recognised that this was a difficult meeting given the student A complaint. The claimant raised an issue about Mr Spicer and his releasing of exam results. Prof Emeseh said that she told the claimant that she was unaware of this issue. Prof Emeseh said that the claimant made no mention of a culture of bullying and harassment. The tribunal does not find that he did. He gives no hint of that in section 5 of his review document and there is no evidence of any additional words having been deleted. He does not tell the tribunal what might have been deleted.

124. On 9 August Ms Marton of HR had emailed Prof Emeseh with a risk assessment asking her to confirm in writing whether student A would have any further interaction with the claimant whether directly or indirectly and when the claimant would next have any interaction with students. She proposed a meeting to make a decision regarding the potential suspension of the claimant. Prof Emeseh replied that student A was out of the country at that time though was a home/UK based student. A risk assessment was drawn up by HR.

125. On 16 August, Prof Emeseh asked to see the claimant the following day with Michelle Marton. She said there was an important matter she wanted to discuss with him and preferred to meet face-to-face. The claimant responded by email saying that he had not been well recently and asked if she could move the meeting to the following week. He said that he thought it would be necessary also for her to let him know what the meeting was about given the arrangement for there to be a member of HR present. Ms Marton responded to his email saying that she was sorry he had not been feeling well, referring to the possibility of additional support and also offering to move the meeting to Teams. She said that she was unable to provide any details about the meeting other than to say it was in relation to a student complaint. The claimant replied seeking more information about the student complaint. Ms Marton emailed that she could not provide him with any further details at this stage. The claimant asked for sight of the procedure suggesting a meeting with HR present when a student complaint had been made without informing the member of staff of the content of the complaint. Ms Marton responded that an employee would be informed of any allegations to enable them to prepare and put forward their case at an investigation meeting. The normal process was to have a meeting with a line manager and a representative from HR to inform him about the

complaint following which he would be issued with a letter that would explain the next steps. Prof Emeseh told the tribunal that a similar process was adopted when she herself was told that the claimant had made a grievance about her.

126. The claimant's evidence was that he was told the name of the student complaining on 17 August and that the allegations were of inappropriate remarks of a sexual and racial nature. He changed that evidence moments later to say that there was no mention of anything sexual or racial, but rather just inappropriate behaviour.
127. The respondent then wrote to the claimant confirming that there would be an investigation to establish, amongst other things, if there had been unacceptable and unwanted behaviour which constitutes sexual and racial harassment towards student A in breach of the respondent's Dignity and Respect and Disciplinary policy. The claimant was told not to be involved in any face-to-face contact with students during the investigation. The letter had been prepared in advance of the meeting to be handed to the claimant. Given that the meeting took place remotely, the letter was then sent to him by other means. Given the absence of students on campus it had been decided following the risk assessment that the claimant would not be suspended.
128. Dr Natalie Wilmot was appointed as the investigating officer. She wrote to the claimant on 30 August (in a letter drafted by HR) under the heading of review of restrictions on duties saying that she had reviewed his partial suspension but that his contact with students was to remain restricted. The claimant did not know Dr Wilmot. She was based in the school of management.
129. Dr Wilmot says that she met with student A over Teams on 24 August and has produced notes of an interview with her. The claimant does not accept that this interview took place and notes that he has not seen any invite issued to student A to attend this meeting.
130. Student A gave an unprompted account of her allegations. She said that her first encounter with the claimant was the first or second semester of 2022 at which point he was not one of her lecturers. He had only just joined the University and did not have a name on his office door. He saw her in the corridor and approached her. He asked her name and said that she had a beautiful smile. He asked if she could come round to his office for a chat. He asked about her background and she then asked his name. She said that the conversation turned quickly into a personal conversation. The claimant asked about her family and she said that her parents had recently passed away. He then asked if she had a boyfriend to which she replied that she did not. He then said: "You should have a boyfriend and have someone at home, have skin to skin contact with someone."
131. She said that he asked for her opinion on his physical appearance asking "am I handsome?" And "what do you think of me?." The conversation lasted around 20 minutes. She found it to be strange. She spoke to a friend in church about the conversation and the friend agreed. Student A

expressed that she felt that boundaries have been crossed and the claimant was not hesitant in telling her that she needed skin to skin contact with a husband.

132. She recounted that during term time 2023, when he was one of her lecturers and taught her employment law she was uncomfortable when she saw him. She said that during the teaching of the module they were sitting in a circle and everyone could see each other. She was sat next to 2 other named students who subsequently were interviewed. During an open class conversation, the claimant asked: "do you have something to ask?" The claimant came around her and said: "don't you wanna talk?" and then "don't avoid answering because you have a fair skin". Her and one of her named friends described feeling the comment was weird.
133. She said that at the end of the second session of the module as everyone was leaving, he stopped her and walked up to her saying he remembered her and where she was from describing her as "the pretty church girl." During the conversation, she said that his tone and voice changed and he asked her to come to his office.
134. She then described the third or fourth lecture sometime in October 2022. She was at her employment law module with her student friends and feeling uncomfortable at her last encounter with the claimant. The claimant stopped as she was leaving asking her again if she could come into his office and saying that she was very pretty when she smiled. He spoke about the scarf she was wearing on her head and said that it looks good on her and that "you look very Africanised and pretty". He then took his hand and held it under her chin for around 30 seconds before letting go. She thought he was going to try to kiss her and described herself as uncomfortable shocked and paralysed. She walked out of the classroom and said that at that point she spoke to Ms Shaw about it. She said that the claimant had also referred to her Jamaican origin and said: "People from Jamaica dance like they are making love."
135. She then described the last or second last lecture before the end of the academic year. She said she was enthusiastic and hugged her friend. The claimant then came behind her and said that she wanted to give her friend a hug but not him. She said that in that particular class there were 2 male and 3 female students. The claimant said: "If we were in a dark alley would you hug me then?" She said that nobody laughed. She asked "why me" and told the claimant that she would report this although she did not.
136. She said that after the claimant had marked her assignment, she asked Mrs Cressey if she wouldn't mind remarking her assignment.
137. Dr Wilmot asked some questions for clarification particularly in respect of timescale. Student A said that the first lecture in September 2022 was when the alleged comment about her fair skin had been made. The inappropriate touch happened in October 2022. The comment about the hug was in the final week of May 2023. She also volunteered that during an internship in Germany she had met a student who had shared with her her own experiences of allegedly inappropriate conduct by the claimant.

Student A said that she was happy for Dr Wilmot to reach out to the two students she had mentioned. Dr Wilmot asked her what she wanted to see as a resolution. Student A replied that perhaps that the claimant did not work with young women so that they did not feel uncomfortable. She said that perhaps a formal warning might make him realise what he was doing was wrong commenting that he was good at his job but “he needs to behave”.

138. Dr Wilmot wrote to the claimant on 25 August inviting him to an investigation meeting on 29 August and setting out updated allegations reflecting the comments which student A had brought out when interviewed herself. These were specifically quoted to the claimant in updated terms of reference and included the matters which came to be referred to as incidents 1a – 1e. He was given the right to be accompanied. Indeed, the claimant attended accompanied by his colleague lecturer Dr Nalule and a professional colleague from another university, Dr Eбенуwa. Dr Nalule took her own note of the meeting.
139. The claimant’s case is that Dr Wilmot said she had a written complaint from the student. She did not recall if the claimant had been told that they had a written complaint from the student. The claimant did ask for the written complaint and she said that this would be provided in writing i.e. in her subsequent investigation report. In any event, she considered a written and oral complaint to have equal validity. The claimant received after the interview, a note taken by a HR adviser who was present and took an opportunity to return the notes marked up with his suggested amendments of what was omitted from those notes. Dr Nalule had taken her own notes of the meeting. The final version of the notes sent back by the claimant made no reference to him having been told that there was a written complaint from the student.
140. The claimant accepted that he had a full opportunity to say what he wanted to at the meeting.
141. The claimant’s position was that he had shown that the dates of the alleged comment/incidents must be wrong and therefore he had effectively defeated the allegations and they should have been withdrawn. There was no employment lecture in October 2022 and that the lectures had not started until the second semester.
142. Dr Wilmot interviewed student witness 1 on 29 August, asking her to tell her about the interactions she observed between the claimant and student A. She said: “The second semester I sat beside student A and he asked her a question to which she didn’t reply. The claimant said: “why are you not answering, just because you’ve got light skin.” She then got worried. Student A opened up to her about her first encounter with the claimant, he told her when they first met he asked: “why don’t you have a man?” Student A told him she was a Christian then the claimant made a comment to student A about how Jamaican people dance and touched her chin. Student witness 1 told student A that they could now leave the class together to avoid her being alone with the claimant.” Student witness 1 confirmed in answer to a question from Dr Wilmot that the light skin reference came after an open question to the class not just to student A.

143. When asked if student witness 1 had observed anything else she referred to entering the classroom and student A approaching her and giving her a hug. She said: “[The claimant] said in front of all the students in the class “is she going to come and hug me? [Student A], would you hug me if we were in a dark alley?” Student A was described as being shocked and had asked her and student witness 2 whether they heard what he had just said.
144. Dr Wilmot interviewed student witness 2 on 1 September 2023. When asked if she recalled a comment made about fair skin in the context of student A avoiding answering a question she said that she did not. She was asked if she could recall any inappropriate comments or behaviour made by the claimant to student A in relation to a hug. She responded that student A and her started to talk and she remembered towards the last lecture they walked out of the lecture and were sat down waiting for student witness 1 who was running late. Student A gave student witness 1 a hug when she arrived. The claimant came from behind and asked “would you hug me if we were in a dark alley?” She remembered a disgusted look on student A’s face and described it as feeling weird and a lot of people were in the same lecture when the claimant said it. Student witness 2 said that after making the comment about the hug, the claimant moved away to his desk where he repeated the comment. She said that the incident occurred towards their last lecture but not at the final lecture. Student witness 2 described student A as being close with Mrs Cressey and telling her everything that had happened with the claimant. She also said that student A started her counselling and mentioned everything to them.
145. The claimant emailed Dr Wilmot on 8 September chasing her report. He referred to purported allegations and it being impossible for a matter of this nature to have transpired in the law school without Professr Emeseh’s knowledge. She would not be independent. Dr Wilmot replied on 11 September saying that there had been a slight delay and she expected to complete the report in the next few days. The claimant emailed Dr Wilmot on 12 September saying that he needed the written complaint signed by student A. He said that management had promised that it would be provided before or at the investigation meeting. He said that he strongly believed that there was no complaint from any student – the student had been “incited” or someone must have written it for her.
146. Dr Wilmot subsequently produced a report where she went through the allegations and the evidence she had been given on them. She recorded that the claimant “robustly denies” all the allegations. She said that there was a significant discrepancy in dates regarding early interactions in the employment law module. Both student A and student witness 1 stated that inappropriate comments (“fair skin” prior to the touching of the claimant under her chin) took place in an early session of the module and recall this as being in October 2022. In fact, the employment law module was not taught until February 2023. The “hug” was said by the claimant and both of her student witnesses to have taken place in the last lecture of the module in May 2023. The last lecture took place in fact online on 5 May 2023. The last in person lecture took place on 28 April, the attendance records

confirming that student A and both of her student witnesses were present. She thought it possible that the last lecture simply referred to the last in person one which was something that the reviewing manager or hearing panel should consider. Otherwise, she thought that the students might be focusing more on the alleged behaviour rather than the dates given that the witness interviews did not take place until August 2023.

147. Dr Wilmot described in her report that she spoke to student A over the telephone on 18 September to ask about the discrepancy in dates. Student A said that she remembered the alleged fair skin comment to be made at the first lecture of the module, which is why she said October, but agreed that as the first lecture was in the second semester it would have been in February 2023. Similarly, she said that the allegation of physical touching took place the week before the career booster week. Dr Wilmot noted that this took place in both October and February. Dr Wilmot noted that the attendance records showed that student A was present at the first 4 weeks of teaching of the module in February and early March 2023 so that it would have been possible for the alleged incidents to have taken place during this time period. The claimant said in evidence that there was no evidence of the 18 September phone call having taken place. The tribunal does not conclude that Dr Wilmot was inventing it.

148. Student A had seen her mental health advisor, Ms Shaw on 1 March, 15 March, 1 April and 11 May 2023 and had raised experiencing unwanted attention from a lecturer.

149. Prior to Dr Wilmot calling student A on 18 September, there had been a difference of opinion within HR as to whether it was appropriate to make the further contact. Dr Wilmot had asked advice from Ms Se Se who was her original HR support. Her advice was not to contact student A again. Dr Wilmot raised the same issue with Ms Hartman who subsequently supported her. Ms Hartman took the advice of Miss Rogers. Miss Rogers and Ms Hartman considered that there seemed to be some discrepancy about the dates of the alleged incidents and that it was appropriate for Dr Wilmot to call the student to gain clarity. Miss Rogers had not herself been aware at the time that Ms Se Se had given different advice.

150. The claimant said that it was his case that Dr Wilmot privately contacted student A to change the dates of the allegations because of his protected disclosures and race.

151. When put to him in cross-examination that he had said nothing about Prof Emeseh pursuing these allegations because of his complaints in respect of academic integrity or harassment, he told the tribunal that he just said they arose because of conflict with Prof Emeseh. The claimant confirmed in cross-examination that he was not saying that he told Dr Wilmot that it was Mrs Cressey and Prof Emeseh who were the individuals who were seeking to frame him. Dr Ebinuwa's recollection was that the claimant had referred to his line manager being responsible. The claimant said that he had asked that Prof Emeseh not be involved in the decision whether to proceed to a disciplinary hearing. The notes of the investigation meeting, as amended by the claimant, confirm that he referred to potential

motivations of student A including that someone might have been “inciting her, sheer pressure her or even mental issue or any other thing.” Dr Nalule’s notes referred to the claimant saying that he had been framed. The respondent’s original note referred to Dr Wilmot asking if the claimant wanted to name the member of staff would she was suggesting encouraged student A to make the allegations and the claimant said he did not.

152. Dr Wilmot denied being protective of Prof Emeseh. Her report was focused on student allegations not allegations against Prof Emeseh. The claimant did not provide any specific details of allegations against her. He expressed concerns, but did not say why they ought to be considered. She requested further any information from the claimant, but none was provided. Dr Wilmot was working her period of notice and was not with the respondent after 31 October. She had no conversation with either Prof Emeseh or Mrs Cressey.
153. She considered that the reporting of the allegation had been purportedly through Mrs Cressey, but having interviewed student A proceeded on the basis that the allegation was as explained to her by the student. Again, she refuted the suggestion of the claimant that she had never in fact had any meeting with that student. She accepted that there was no evidence of the student being invited to a meeting and it was not recorded. She was clear and adamant however that she had met with the student and then the two student witnesses through Teams calls and where she was accompanied by a HR representative. Student A was the first person she spoke to see if the investigation should continue at all. Dr Wilmot’s evidence is accepted.
154. From Dr Wilmot perspective the claimant was being invited to a fact-finding investigation meeting to explore the allegations. It was not a meeting during which the claimant was required to present a defence to a case against him. That would be the purpose of a disciplinary hearing should the matter progress that far.
155. As regards the alleged incidents were the claimant was said to have referred to skin to skin contact (1a) and people from Jamaica dancing as if they are making love (1b) alleged to have taken place in January 2022, the claimant provided emails regarding his attendance on site and not having a key for his office on dates in January 2022. Dr Wilmot considered these, but did not regard them as evidence that the claimant was not on campus and that comments made by the claimant to student A in a corridor around that time could not have been made. It was not shown that he was not on site during the whole of January. She told the tribunal that she did not come to a conclusion on whether the events had occurred. It was up to Prof Sivarajah to determine whether the matter should proceed to a disciplinary hearing. These were allegations where she appreciated that there was no corroborative evidence.
156. As regards the alleged “fair skin” comment (alleged incident 1c), Dr Wilmot agreed that there was a significant discrepancy in the date. Originally it was said by student a to have been in October 2022. When interviewed student A referred to it being during term time in 2023. Student

A had had said that the comment was during an open class conversation during the employment law module (when the claimant had questioned if she had something to ask), but then that the claimant came around her before making the comment about her skin. Student witness 1 had referred to the second semester and to “light skin” being commented on. She referred to a question asked directly to student A before the question was raised as to why she was not answering and whether it was because of her “light skin”. When student A had been contacted by Dr Wilmott for further clarity, student A had said she was incorrect and the comment must have been made on an unspecified date in semester 2. Dr Wilmot was aware from the claimant’s evidence that he had not been teaching employment law in the first semester.

157. Dr Wilmot acknowledged that the timeline of the allegation had altered but considered that this did not constitute evidence that the event did not happen at all. The employment law module was taught in semester 2 for which teaching began on 3 February 2023. The class list evidenced that student A and student witness 1 were students on this module and that there were 21 students in the class in total. Student A, according to the attendance records, attended all of the first 4 sessions of the module until 3 March 2023. That did allow for the possibility that student A stated an incorrect date and did not intend to refer to semester 2. The corroborating statement from student witness 1 indicated that above the date stated by student A was incorrect, but it was not unreasonable to believe that a comment of this nature was made at some point in the early stages of the teaching of employment law

158. Student A referred to the third or fourth lecture sometime in October 2022 as the timing of the alleged touching incident (alleged incident 1d). She did not say that it occurred on the same date as the alleged fair skin comment – indeed another occasion in the month was referred to. Again, there was evidence that this could not have happened before February 2023. Dr Wilmot understood that that there was no corroboration for this incident. She noted in her report however that student witness 1 said that student A had made her aware of the claimant’s alleged behaviour following the incident and asked her to make sure that they left the class together so that student A was not alone with the claimant. Student A also told her about the allegations dating from January 2022.

159. As regards the alleged comment about a hug (alleged incident 1e), there had been reference to the event occurring in May 2023 at the last lecture, but that had been online on 5 May. The tribunal cannot see how the allegation can have related to an online lecture given the evidence of how it was alleged to have occurred, despite the claimant’s view to the contrary expressed at one point of the hearing. The last in person lecture had occurred on 28 April. Dr Wilmot appreciated that student A had referred to the incident occurring in May. Dr Wilmot was aware that student A was not at the final online lecture. The allegation of student A when interviewed was that it had occurred at the last lecture or the second before last at the end of the academic year. Dr Wilmot interpreted the reference to the end of the academic year as being May 2023. Dr Wilmot had focused on who was in attendance on 28 April given that student A had referred to the relevant

timing being the last or second last lecture and this was the last in person one. She wanted to understand if it was possible that student A was referring to that date. According to the allegation, student A and student witness 1 were there in attendance. Student A's evidence was that the claimant had referred to student witness 1 by name and said that student A wanted to give student witness 1 a hug, but not the claimant. The claimant maintains that there was no one of this name referred to in his class. The evidence Dr Wilmot discovered was that student witness 1 went by a preferred name which she considered was well known and reflected in that student's email address. Student witness 2 recalled the hug comment and it being made "towards the last lecture."

160. Dr Wilmot noted from the attendance records that student A, and student witnesses 1 and 2 did all attend the final person 09:00 lecture. The attendance records showed that only 4 students swiped in for this session. The attendance records did not evidence conclusively whether or not student A or student witnesses 1 and 2 attended the 10:30 seminar. The existence of two independent witnesses and that all 3 students did all attend the final in person session of the employment law module meant it was reasonable to believe that the date discrepancy was a genuine mix-up and indicated that it was not unreasonable to believe that a comment of this nature was made.
161. The claimant maintained that student A said there were two male and three female students in the class that day which was incorrect. Dr Wilmot accepted that she did not confirm the sexes of those attendance at the class.
162. The claimant has suggested that he left the class up to 10 minutes earlier than 12 noon as he had another class starting at that time which he had to access materials for and attend. Dr Wilmot said that regardless of whether the class ended at noon or 10 minutes earlier, there was still an end to the class at which some of the behaviour alleged could have occurred.
163. Dr Wilmot did not accept in cross examination that the claimant had asked her to speak to any particular students who could evidence what had or had not been said. The notes of the meeting are to the effect that the claimant said he was eager for students to do well and she could ask any of them. The claimant never provided the name of any specific student who could provide relevant evidence. Dr Wilmot thought that it was improper for her to speak to other students without the claimant's knowledge. She had been given the name of two witnesses who said that they had heard the claimant's alleged behaviour. If she had received statements of students saying that they hadn't heard the comment that would be an absence of evidence, but would not mean that the incident did not happen. However, it was improper she felt for her to speak to students unless the claimant asked her to share details of the allegation more widely.
164. Dr Wilmot concluded her report saying that there were discrepancies in dates of the allegations and there was no corroborating evidence for alleged incidents 1a, 1b and 1d. However, the existence of witness

statements for alleged incidents 1c and 1e and the circumstantial evidence that student A had discussed unwanted attention from a lecturer with her mental health advisor in March 2023 and her PAT in May 2023 before proceeding to a formal complaint was something for consideration at a hearing panel should the matter be progressed to a hearing.

165. The claimant emailed Dr Wilmot after she had left the respondent asking if the report subsequently sent to him had been the same one she had sent to HR. She was unable to answer that question and did not reply.
166. As further protected disclosures, the claimant relies on him emailing Prof Emeseh on 4 and 6 October 2023 about “the challenging working environment”. He also says that on 6 October he spoke to Prof Emeseh by telephone and mentioned the challenging working environment. PID 4.1.3 and 4.1.4
167. The claimant emailed Prof Emeseh on 4 October about research activities referring to colleagues ideally not waiting until pushed to provide updates. He referred to an earlier suggestion (already referred to) about a document on a shared drive which could be updated by the researchers. Prof Emeseh replied that morning agreeing that ideally colleagues were not chased to provide things. She said that she was happy to hear any ideas which could improve things. She said that she had given him advice that the shared document might not be the way they wanted to go taking into consideration concerns from colleagues. The claimant responded about other matters she had raised in her reply including a delay in him providing a personal research and innovation plan (“PRIP”). He said he was taken back by her message and the insinuation in it. He said that his inability to submit the PRIP on time as he had done the previous year was because of the “crises and issues I am having in the Department, which you are aware and unable to prevent. You have always praised me during the first semester until preventable challenging working environment cut up me with me.”
168. The claimant has during the course of the hearing provided an audio recording of a Teams meeting (and transcription prepared from it) with Prof Emeseh on 6 October 2023 made covertly by the claimant.
169. The disclosure made by the claimant is selective and the tribunal has not heard a recording of the full meeting. The meeting can be characterised as one where the claimant spoke quickly in a raised voice for periods without pausing for breath and in circumstances where at times Prof Emeseh struggled to be heard. When she was allowed to speak, she spoke in a very quiet and measured tone.
170. Within that, he did refer to her previously questioning how he behaved with his wife at home. Prof Emeseh’s witness statement account was that the focus of the conversation was on the probation issues and she reiterated that she had sought to support the claimant and the decisions she had made were for good reason. She said that she did not recall any claim made in the meeting by the claimant of bullying or harassment.

171. Within the conversation transcribed, Prof Emeseh recognised that this was not an easy time for the claimant but made it clear that she couldn't talk about the issue of the student complaint. She said she was not involved in it. The claimant said that he had big issues in the department to talk about. There was a discussion about teaching.
172. There was discussion about the six-month probation review. Reference was made to the claimant wanting to type something in it. Prof Emeseh said that she wrote something and the claimant wanted to write something in response. She explained that she did not want to expand similarly, with reference to the amount of complaints there had been. She said: "... I said if you write that I will need to write all of this and let it go the way and go it had nothing to do with research..." The claimant referred to Prof Emeseh not knowing the conflict he had had with Coventry and saying why he left Coventry. He also said that she told him: "you don't know how I would be [relating] with my wife if I am behaving like this with you, you have told me that if I continue behaving like this you will sign me off, you can say this So it makes me it has make a kind of intimidating environment recognising certain days I don't come near." The claimant then referred to an occasion when he was a victim of a scam attempt before saying: "it makes me to be a bit surprised the way it is going you know those statements you are making is pushing [me out] of here it makes me to be a kind of intimidating environment." Prof Emeseh sought to respond saying: "because I really don't know how to sort of engage with that you are saying now because it is very surprising..." She was unable to reply further.
173. There was subsequently conversation about the proposal to share a research document amongst colleagues and at the moment people not feeling comfortable with that approach. Prof Emeseh said the concerns she had raised with the teaching of employment law came from students and external people with whom the claimant was working. The claimant then raised the issue of marking saying that the marking given to students was wrong. He continued: "so that thing you put in my probation is wrong, it is wrong, I don't see any credibility in that... That question should never have been re-marked because I discussed it with... Wanted us to add the mark you can push me aside.."
174. In a further section the claimant spoke of probation saying: "When you submitted that you know I went when you submitted that to the HR I wanted to attack it but I remember that I still on probation. People don't use probation as a tool, as a tool of a intimidation... But you use probation as an instrument of intimidation. I'm telling you the fact I am not hiding from you. I am not the only person at has said it if you think I'm the only person some other people have complained the same to me." The claimant subsequently referred to there being a time when he was planning to leave and she even called him before the end of the holiday and asked him whether he was leaving. He said that she was not supposed to ask staff whether they were leaving. He had said to her that anyone can leave at any time including herself. Prof Emeseh responded that she did not ask him if he was leaving. The claimant then said that she didn't know whether he had recorded earlier conversations. Whilst not part of the disclosed audio, Prof Emeseh told the tribunal that at one point in the meeting she had said that

she hoped he had recorded previous conversations because the recordings would show that her recollection was accurate.

175. Given the timing, when the claimant referred to a challenging working environment, Prof Emeseh believed he was referring to the ongoing disciplinary investigation. Prior to this conversation he had raised nothing to tell her about a difficult working environment. She noted that the claimant was still very unspecific about what he meant. The first time she had seen any mention by the claimant questioning the integrity of the employment module exams was in his written grievance. She did not understand there to be any form of whistleblowing. She just saw the claimant as raising a grievance most of which she considered to be “patently untrue, not backed up by the facts and concocted”.
176. The claimant had been supervising a student as part of a Doctoral Training Appeals Panel (“DTAP”). The student had raised an issue with his personal tutor, Mark Van Hoorebeek about being asked to help the claimant with his teaching. The claimant was asked on 20 October by Mr Van Hoorebeek if he could shed any light on this. The claimant responded saying that he did not understand. Prof Emeseh emailed the claimant that afternoon saying that Mr Van Hoorebeek had contacted her saying that the student had requested that the claimant no longer be part of his DTAP team. She asked if the claimant could throw any light on the student's claim that he had been asked by the claimant to do administrative work for the claimant's tutorials and whether he would be agreeable to dropping out of the student's DTAP team. The claimant responded saying that he didn't have a clue what her message was about and that he had been helpful to the student.
177. Before the tribunal, the claimant said that he had been given an option by Prof Emeseh to no longer be involved in this student's DTAP. He said he had not been instructed not to be. Nevertheless, he did not understand why he should have been given that option when there was a process to be followed involving a number of people if the composition of a DTAP team was to be changed. Prof Emeseh agreed that such a change was a faculty decision, but said that she was just asking the claimant what his position was before she spoke to the student and just wanted to understand the facts. Even if the claimant decided that he did not want to continue with the DTAP, she accepted that the decision still had to go to others. Again, she just wanted to know what the claimant's position was. She had never asked him to remove himself. She did not accept that she was favouring Mr Van Hoorebeek as a white colleague. She was surprised that the claimant then contacted the student directly. In any event, she met with the student, who clarified his concerns and posted the comments he had received from the claimant on their Teams chat. She determined that there was nothing inappropriate in what the claimant had done and notified him accordingly.
178. Prof Emeseh had replied to the claimant apologising if she had not been clear saying that no decisions had been made and she would get back to him once she had met with the student. She further emailed the claimant on 6 November 2023 saying that the student found the claimant's feedback

helpful in terms of content and agreed that the claimant's request for administrative support was not out of place. In the circumstances, she said that there was no basis to change the DTAP agreed.

179. As referred to already, the claimant told Dr Wilmot that he did not wish Prof Emeseh to be the reviewer of the disciplinary investigation. Prof Emeseh's evidence is that she did not act as the reviewer. Prof Sivarajah has told the tribunal that he was instead appointed as an independent reviewer. The claimant's position is that Prof Emeseh was still the decision maker.
180. The claimant had emailed Dr Wilmot and Ms Hartman of HR on 8 September. He said that it was impossible for a matter of this nature to have transpired within the law school without Prof Emeseh's awareness and that she would not be an independent reviewer. He referred to the matters raised by him during the investigation meeting which gave reasons as to why he did not want her as the commissioning manager.
181. The claimant emailed on 13 September that he was not comfortable with the matter being dealt with in the department. – he had had a series of academic issues with Prof Emeseh which had resulted in unprofessional confrontations. On 14 September, Ms Hartman informed the claimant by email that they would be proceeding with Prof Emeseh as reviewing manager as no evidence had been provided that they should not proceed in that way. The claimant replied that he had given sufficient reason referring to there being a conspiracy.
182. The claimant chased Dr Wilmot for the investigation report again on 10 October. She replied saying that her final report had been submitted on 18 September – her own involvement had therefore concluded, but she was copying HR in on this email so that they could provide an update.
183. HR's response to the claimant was that Prof Emeseh was an appropriate person to conduct the review as his line manager. HR did send Dr Wilmot's investigation report to Prof Emeseh. Prof Emeseh then realised from the report and the statements of the claimant that he was making allegations about her own behaviour and involvement in the complaint of student A. She arranged a meeting with HR at which she said that in the light of what she had read she would recuse herself. She said that thereafter she had no involvement in a decision that the matter should go to a gross misconduct disciplinary hearing.
184. The claimant emailed Mr Mowbray of HR on 3 November saying that he had been assured that the investigation would end on 8 September and the review would be concluded in the same month. He referred to it now being 6 weeks since the investigation with no decision as to how the matter should progress. He referred to suggesting that Prof Emeseh should not be the reviewer.
185. Mr Mowbray emailed the claimant on 3 November confirming that it had been decided that Prof Sivarajah "will be" reviewing the investigation report. Prof Sivarajah said that he had met with HR in late October and was

asked if he would be the reviewer. He enquired as to why he was being asked, rather than this being conducted by the claimant's line manager. He agreed to conduct the review. His review had started before Mr Mowbray emailed the claimant on Friday 3 November. It was completed by Monday 6 November.

186. Prof Sivarajah rejected the claimant's proposition that he had conduct of the review in less than 24 hours. He was unable to comment on the aforementioned communication from Mr Mowbray to the claimant or its timing. He had been asked by Miss Rogers if he would act as the reviewer in late October. He met with her and asked why the claimant's line manager could not do it as he wanted to know the rationale for his own involvement. He then agreed to carry out the review.
187. On 6 November Prof Sivarajah wrote to the claimant saying that he had been forwarded the investigation for review and had reached the decision to progress the allegations to a disciplinary hearing for further consideration at gross misconduct level. It is the claimant's case that Prof Sivarajah never in fact conducted such a review. The evidence that the reviewer was changed by the respondent is accepted. Prof Sivarajah has explained (as set out below) how he conducted the review. That was wholly credible. The tribunal does not find that he is lying.
188. Prof Sivarajah understood there to be 3 allegations with reference to 5 sub allegations/incidents within the first allegation. There was uncorroborated evidence for 3 of the incidents having occurred, but corroboration for 2 of them. He considered that if those 2 allegations were upheld as valid, then that might in turn provide corroboration for the other 3. He said that if there had been no evidence supporting the allegations the matter would not have proceeded to a disciplinary hearing. He had the discretion to decide. On the basis of the evidence supporting the allegations and considering the seriousness of them, he believed there was a requirement for the respondent to move to a disciplinary hearing. He acted completely independently with no influence from anyone else. There is no evidence of any outside influence or pressure.
189. Prof Sivarajah told the tribunal that he was very aware that there were inconsistencies in the accounts given by student A and the student witnesses in their interviews, but he felt that these had been addressed by Dr Wilmot, who he viewed as having taken a reasoned, clear and balanced approach. Even if incorrect dates had been given, it was not unreasonable to believe that the statements had been made or behaviour occurred. He questioned if people could have a clearer collection given the passage of time. If a student described an incident at a final lecture, yet the final one was online, it might be thought that they were referencing the final face-to-face lecture before it. The claimant still had opportunity to provide his account at the disciplinary hearing. There was, however, sufficient evidential basis for all of the allegations to be taken further to be determined at a disciplinary hearing.
190. The claimant complains that HR caused a delay from 18 September to 6 November in reviewing the outcome and informing the claimant of it.

The claimant explained in cross-examination that he was particularly concerned with the conduct of those involved in the disciplinary panel and in particular Miss Rogers, Mr Mowbray and Dr Wilmot. The tribunal has referred to the considerations at this time, in particular regarding the appropriate reviewer. The claimant did not accept there being any delay by the need for HR to review Dr Wilmot's report and the need to find an alternative individual to review it and determine whether it was progressed to a disciplinary.

191. Miss Rogers emailed Ms Marton on 18 October 2023 referring to a number of issues which had occurred with the claimant's case involving a member of the HR team, Ms Se Se. She referred to a delay in starting the case once it was handed over to Ms Se Se, the standard of the terms of reference (these were the ones originally drafted by Ms Se Se, not the final version), the issue of a letter reviewing the claimant's restrictions when she had been asked to hold back the letter until restrictions on the claimant had been clarified and allowing an individual external to the organisation to accompany the claimant at the investigation meeting. Miss Rogers, in evidence, noted reference in communication to the claimant to a partial suspension, saying that those were not the words she would have used when there was in fact a restriction on his duties rather than any form of suspension. Miss Rogers had not been aware that the claimant was allowed to be accompanied by someone external at the time of the investigation meeting. That was not a decision she would have made.

192. The claimant sent an email to Miss Rogers copied into Prof Sivarajah, Mr Mowbray and Ms Se Se on 7 November. He referred to having been unwell since the allegations were raised and the process having taken a long time. He said: "I was like alibi in all the allegations (and this is a complete defence). I was preparing a grievance letter early this morning about issues in the Law School which I said in my mails that there will be the right time to say the issues about the existing bullying and harassment culture. You can also see many people leaving the Law School." PID 4.1.5 Mr Mowbray replied acknowledging the claimant's email and signposting him to sources of counselling and health-related support. Mr Mowbray said that the claimant was of course perfectly entitled to raise a grievance which would be considered in line with the policy accessible on the intranet. The claimant said, amongst other things, that Miss Rogers did not complete the review for 6 weeks and it was surprising how Prof Savirajah did his review within the weekend.

193. On 6 November, the claimant sought to appeal the decision to refer the case to a disciplinary panel. Mr Mowbray responded saying there could only be an appeal against any outcome of the formal stage of the disciplinary procedure and there had been no outcome he could yet appeal against. The claimant relied on a paragraph in the disciplinary procedure which provided that an employee dissatisfied with the outcome of any stage of the formal disciplinary procedure might appeal and a further provision under the heading of Appeals Process saying that one appeal will be allowed at each stage of the procedure.

194. Mr Mowbray wrote to the claimant on 27 November inviting him to a disciplinary hearing. He was told that as the allegations were considered as gross misconduct, dismissal without notice may be an outcome. It was stressed however that no decision on any matters had yet been made. The allegations were set out under bullet points being firstly alleged unacceptable and unwanted behaviour which constituted sexual and racial harassment towards student A. The alleged harassment included unwanted physical contact and sexually degrading or provocative comments or gestures. The second bullet point referred to an alleged pattern of unacceptable and/or inappropriate behaviour in his conduct with a student and the third and alleged failure to demonstrate a professional and ethical responsibility to respect the interests of students. A pack of information was enclosed, including the investigation report which it was said would be considered at the disciplinary hearing. The claimant was given a right to be accompanied and was told he was entitled to submit a statement of case at the hearing. If he intended to call any witnesses, it was his responsibility to request their attendance.

195. The claimant called one of his former students Boateng Clinton, to give evidence on his behalf. He said that he was contacted on 1 December 2023 early in the morning by the claimant, who told him there was an accusation brought against him. The claimant explained that there was a student in the class and who normally sat by the left side of the class who was from Jamaica. Mr Clinton could not remember the student being described. The claimant then told him the name of student A. Mr Clinton said: "It must be the light fair tone skin girl." The claimant responded: "Yes, oh! Is that what you people call her, and I replied yes, the light fair tone skin girl, he stated no wonder." Mr Clinton said that the last lecture of the employment module in May 2023 had been online. The preceding one had been face to face, but he had not been at this one himself. There had been weekly classes from February 2023, but with 2 sessions each week on the same day running for 90 minutes from 9am and then 10.30am. Attendance level were between 3-12 students for each class throughout. He talked through a number of questions with the claimant later in the morning and sent an email to the claimant at 09:30 on 1 December reflecting their conversation. This did not reference his reaction to the name of student A as described in his witness statement. The evidence of Mr Clinton that he had not been a witness to or heard any inappropriate comments and similar evidence from another male student was provided by the claimant for consideration in his disciplinary hearing.

196. The respondent put together a panel to hear the claimant's disciplinary the composition of which the claimant objected to. Mr Mowbray emailed him on 10 January 2024 asking who the claimant was suggesting should step down. The claimant had suggested that there were people on the panel who seem to be directly or indirectly implicated in a separate grievance he had submitted. The claimant responded that everything would be clear once the grievance process was underway. Mr Mowbray responded that this wasn't clear and he had to press the claimant further. They were unable to consider who might need to step down unless he named the person unspecified his grounds. The claimant was, he told the tribunal, referring to Dr Spicer. The panel composition was changed. He

confirmed that he had no objection to those who remained on the final panel which heard his case.

197. On 27 January 2024, the claimant emailed Mr Mowbray saying that he had repeatedly stated that colleagues in the school of law were coaching student A to make false allegations. This was referenced he said in Dr Wilmot's report.
198. The claimant asked for a delay in the disciplinary hearing for health reasons to which the respondent agreed.
199. The disciplinary panel was chaired by Dr Cosson, head of school for social sciences, whom the claimant had never met and who had only joined the respondent in November 2023. She sat on the panel with Sherif El-Khamisy, associate Dean for research. Anna Jackson of HR supported the panel. The panel first convened on 29 February 2024. The claimant was accompanied by Dr Nalule. Dr Nalule was allowed to ask questions and seek to clarify what was being said on number of occasions. Notes were produced of the disciplinary hearing. The claimant made his own recording and provided a marked-up version of the notes with some corrections and additional passages which had not been captured by the note taker.
200. Dr Nalule described the claimant during this meeting as at first being professional, but as it progressed he became "a bit loud". She had tried to calm him down. The claimant had kept asking for a statement to be produced and said that he thought he was being framed. People were speaking over each other.
201. The claimant had before the hearing received Dr Wilmot's investigation report with appendices including notes of the aforementioned interactions with student A. The claimant complains that Dr Cosson failed to provide him with the written complaint from the student. When put to the claimant that this was because none existed he said that he agreed it didn't exist, but they never told him that.
202. Dr Cosson emailed Ms Jackson and others on 1 March thanking them for the support at the hearing the previous day and referring to the fact that they did not complete the meeting in full. She described the meeting as having been a difficult one. The meeting was therefore to be reconvened. She highlighted points upon which she and Mr El-Khamisy would appreciate some further information and guidance on. Firstly, she asked about the respondent's policy regarding student complaints noting that student A had not submitted a specific written document as a complaint to the respondent but rather the alleged misconduct came to light through a conversation between the student and Mrs Cressey. She asked whether they needed to clarify that this was regarded as a student complaint saying that this seemed to be an important technical point that might be used to render the disciplinary proceedings invalid. She then referred to the dates of the alleged incidents noting that some of the allegations originally referred to October 2022 as per the student statements, but this was later changed to 2023.

203. Dr Cosson had indeed raised at the disciplinary hearing the issue of the dates identified in the investigation report and that Dr Wilmot have noted a discrepancy. The claimant stated that there needed to be new terms of reference drawn up given a change in the dates of the alleged incidents. The claimant agreed before the tribunal, that she told him that she understood his complaints about the dates and would consider the issue in the panel's deliberations.
204. Ms Jackson responded on 8 March saying that they had a duty to investigate serious allegations which could amount to gross misconduct regardless of how the potential misconduct allegations against the staff member came to light. She quoted from the dignity and respect policy which stated that formal concerns of alleged bullying and harassment by staff against students will be dealt with through the respondent's disciplinary procedure and that concerns could be raised by a student as a student complaint. Therefore, they did not require a student complaint procedure to be followed in order to proceed to a disciplinary investigation.
205. As regards the dates, it was advised that the panel should take into account the students' reason for the change of dates and the likelihood as to whether or not the allegations had been fabricated or the motivation for this.
206. The claimant complains that Dr Cosson's panel considered the allegation of inappropriate touching, which encompassed in Dr Wilmot's report the claimant commenting on the claimant's dress and that she looked pretty, despite the investigation not recommending that this allegation proceed to the disciplinary panel. In fact, Dr Wilmot commented, after describing the claimant and student A's accounts, that there was no corroborating evidence to support whether this alleged event took place. The tribunal notes, in this context, the report that was made by student A to Ms Shaw where she referred to aspects of this alleged incident. Prof Sivarajah had advanced consideration of all 5 incidents to a disciplinary hearing and Dr Cosson was aware that all were left for her panel's determination.
207. The respondent's procedures envisage 4 possible outcomes of an investigation which include there being no evidence to support an allegation resulting in no further action or a similar outcome were there was considered to be insufficient evidence.
208. The claimant was asked at the hearing what he believed to be the motivation for these allegations being made. The panel said it understood that the claimant was saying there was a conspiracy between Prof Emeseh and Mrs Cressey. The claimant believed this extended to them persuading all the witnesses and students to make statements against him. The claimant referred to a conflict he had with Prof Emeseh. He had applied for a professorship, and she had suggested that she did not consider his application. The claimant also referred to the criticism he had received over the email from the student which he described as being feint and the aforementioned issue regarding the student not wanting the claimant to be part of his DTAP team.

209. Dr Cosson wrote to the claimant by letter of 24 April 2024 with the disciplinary hearing outcome. She set out the 3 overarching allegations as being unacceptable and unwanted behaviour which constituted sexual and racial harassment towards student; an alleged pattern of unacceptable and/or inappropriate behaviour in his conduct with the student; and an alleged failure to demonstrate a professional and ethical responsibility to protect the interests of students.
210. She then referenced 5 incidents of alleged unacceptable and unwanted behaviour considered by the panel. These comprised the alleged comment regarding skin to skin contact (1a), regarding people from Jamaica dancing like they are making love (1b), the comment in a lecture regarding student A's skin tone (1c), touching the student (1d) and a comment about hugging the student in a dark alley (1e). The claimant was noted as strongly denying the allegations and saying that they had been raised maliciously. The panel had considered how the allegations had come to the attention of the respondent and the possible motivation for them being raised. The claimant had said that he had interacted only once in a corridor with the student and at other times through normal class interactions. It was noted that the claimant believed that this was a case of conspiracy against him by Mrs Cressey and Prof Emeseh.
211. The way in which the allegations emerged in information provided to Mrs Cressey and Ms Shaw was referenced. There did not appear to be any motive or incentive for the student to raise a false complaint and given that her interactions with the claimant were limited in nature and duration and she had completed her studies by the time she confirmed she wished her complaint to be taken further. It was recorded that the claimant had not evidenced any reason why the student would make 5 false and malicious allegations against him.
212. The panel considered that it was not outside Mrs Cressey's remit as student A's PAT to follow up the student's concerns. The student was not a minor or adult at risk and Ms Shaw had applied professional judgement and taken into account the student's own wishes not to progress her concerns when initially raised. Ms Shaw had produced evidence that the discussions took place with an indication that the student was reluctant to complain, which was not suggestive of someone motivated to make malicious allegations. Whilst the student did not submit a written complaint, the panel considered that the initial fact-finding process and formal investigation process was sufficient to confirm the student's complaints. There was no evidence to show that the student was being influenced to progress her complaints. The panel found no evidence to demonstrate a conspiracy against the claimant by his colleagues or any manipulation or coaching of the student. The other student witnesses also had limited interaction with the claimant which did not reasonably lead to a belief that they acted with ill intent. It seemed highly unlikely that colleagues and students could have colluded to this extent to fabricate the complaints.
213. The panel, as with Dr Wilmot, considered that there was corroboration for 2 but not for the further 3. Dr Wilmot independently

checking the detail of the dates with student A was not regarded as problematical. The panel accepted that the dates some of the alleged incidents were initially reported as taking place (during semester 1) were incorrect and that student A later stated that incidents had taken place in semester 2. The panel concluded that it was possible that the students could reasonably mistake the timings of the incidents given their reference in their statements to timings such as “first or second semester” and “near the last semester” and consistency and their reference to the timing of the lecture in the semester. The panel's view was that the change of dates did not confirm that the incidents could not have happened at all. The statements from student A and the two student witnesses had shown consistency in the specific detail of the incidents which gave weight to their accounts despite the inconsistency in timings.

214. The panel reviewed class attendance records for the lecture on 28 April 2023, including evidence of attendance provided by the claimant. They felt that the difference in student A's account of class composition when compared to the attendance records could have been down to the passage of time. They noted that student A and two student witnesses only clocked in once for the lecture and the claimant's suggestion that this showed they did not attend and must have clocked in and left before he arrived. The panel were aware of attendance recording issues within the respondent with students at times failing to clock in twice despite attending. This could have happened on 28 April. The panel considered it reasonable to accept the statements of student A and the student witnesses. The panel considered emails of 2 students sent to them by the claimant. The students had attended the claimant's employment law modules but had not witnessed the behaviour alleged against the claimant. Just because they had not seen or heard what was alleged to have occurred did not mean it had not taken place. Witness statements submitted by the claimant of students who had not heard the claimant's alleged comments was insufficient to conclude that the comments had not been made. For the panel, the key factors were that student A appeared to have no motive other than to prevent a repeat of his behaviour, had discussed her concerns about unwanted attention with Ms Shaw, with other students and with Ms Cressey close to the time of the incidents and two of the incidents were witnessed. This led the panel to conclude that on the balance of probabilities all 5 of the incidents did take place. The panel considered that all of the three overarching allegations were well-founded. The claimant's behaviours resulted in a breakdown in trust and confidence in a role where he was required to recognise and respect the boundaries of his professional role and maintain relationships with students based on trust, confidence and equal treatment. The decision was therefore to terminate the claimant's employment with immediate effect on 25 April 2024.

215. The claimant and Dr Nalule both agreed in their own evidence that, if it had occurred, the behaviour the claimant was found guilty of amounted to serious misconduct.

216. Dr Cosson accepted in cross-examination that she did not go through in the outcome letter the panel's rationale for determining that each of the individual 5 instances occurred as alleged. She was clear, that the panel

had considered each incident and the evidential issues highlighted in Dr Wilmot's report before concluding that they were proven. Dr Crosson was not certain whether she had read and considered the claimant's grievance prior to the disciplinary hearing or before giving her outcome. HR had advised that the grievance was to be dealt with separately and did not form part of the disciplinary panel process. She certainly had not studied the grievance in detail. She did nevertheless, during the hearing, consider the claimant's representations regarding there being a malicious motivation to the allegations.

217. Dr Crosson rejected the proposition when put to her that she was influenced by the claimant's race or that the panel would have come to a different decision if the allegation had been against a white member of staff.

218. The claimant submitted an appeal against his dismissal with his grounds including procedural irregularities, bias, inappropriate and harsh sanction, evidence not taken into consideration and evidence having been suppressed. The claimant did not suggest that the decision was because he had made protected disclosures.

219. The appeal was determined by Prof Robert James' panel. The claimant said that he was aware of the claimant's disclosures. Other than being aware of, but not having read his grievance, Prof James said that he had no awareness of them. The claimant asked for the appeal to be dealt with on the papers, he told the tribunal, because he was already dissatisfied with the system.

220. Nevertheless, Prof James convened a hearing on 16 July with another head of school, Mostafa Mohamed, sitting with him together with the head of people business partnering as HR support. Dr Crosson attended to present and explain the dismissal case. She was asked if she could clarify her understanding around the source and inconsistency in dates of the alleged incidents. Prof James asked about the date of the last lecture and what the confusion in evidence had been around it. He asked for an explanation of the attendance data.

221. Prof James then wrote to the claimant on 23 July 2024 notifying him that his appeal had not been upheld. The panel's consideration of the claimant's grounds of appeal were explained in turn. Particular explanation was given as to the issue of discrepancy as to dates in respect of allegations 1c ("fair skin") and 1e ("hug" comment). The claimant made specific reference to these 2 incidents in his grounds of appeal although the appeal panel looked at all of the incidents and found the panel of Dr Crosson to have been reasonable in concluding all of them to be upheld against the claimant.

222. As regards 1c, student A had said in the formal investigation that the comment occurred during term time 2023. A student witness corroborated that the comment was made and that it was in the second semester. They were satisfied that whilst the initial allegation stated an incorrect date, student A and her student witness were consistent in their general recall of dates. The panel was satisfied that when the students talked about the beginning of the academic year, they meant the start of the semester.

Follow-up telephone calls during the investigation process helped clarify what the students meant in their original statements. The timing of the discussion with the mental health counsellor was consistent with when the module took place. Confusion around the “last lecture” terminology seemed reasonable as the students were referring to the last face-to-face lecture. The panel was satisfied that new terms of reference and a fresh investigation were unnecessary as the nature of the allegation against the claimant did not change.

223. As regards 1e, student A stated in the investigation that the comment occurred in the last or second last lecture before the end of the academic year. The claimant had said that the last lecture was 5 May, that it was online and that student A and student witness 1 implied that 1c and 1e occurred at the same lecture. Student witness 2 stated that the “hug” comment was said towards the last lecture, but not at the final lecture. The claimant was noted to have said that the students had given the wrong description of the class composition on 28 April 2023 (that there were 2 boys and 3 girls in attendance) whereas the electronic class attendance records showed 4 female students in attendance. It was said that the student witness statements provided from the claimant contradicted the assertion that there were only female students in this class. Other evidence (appendix I) indicated that student A attended the lecture on 28 April but not the seminar. The incident was alleged to have occurred at the end of the lecture as students were leaving. Student A’s non-attendance at the subsequent seminar was therefore irrelevant. The claimant’s evidence that student A and her witnesses did not attend the full class as they had only swiped once and the in class attendance sheet kept by the claimant showed only one female student signed in were considered. However, the data indicated that student A was present at the lecture, the first class, on 28 April which was the only class that the claimant said he was at himself. Again, whether she was present in the second class was regarded as irrelevant. The panel considered it reasonable for Dr Wilmot to have telephoned the students after their interviews to clarify the dates. It was quite possible that, had the comment been made, it would not have been heard by all students there.

224. The panel did not therefore consider that the disciplinary panel had suppressed or neglected any evidence before it as was one of the claimant’s grounds of appeal.

225. As alluded to, the claimant had submitted a lengthy grievance in two parts on 20 December 2023. PID 4.1.8 The first part was that he had been continuously bullied and harassed and treated unfairly and differently “as well as having reported about the wrongdoing of bullying and harassment culture...” Over 33 paragraphs, the claimant went through a series of issues including the aforementioned criticisms of the claimant’s communication style, issues with his probation extension, student marking, his request to be removed from teaching contract law, Prof Emeseh’s alleged comment at the meeting on 14 October 2022 and his professorship application. He alleged that Prof Emeseh had used her position as head of school in a high-handed manner which involved the bullying of BME employees. The second part of the grievance related to concerns about the investigation and disciplinary process. It included an allegation of bias, a lack of investigation

and the pursuit of a malicious and vexatious allegation against him. It included a critique of the evidence on which the decision to proceed to a disciplinary hearing had been made. He maintained that Mrs Cressey with the knowledge and support of Prof Emeseh might be behind this.

226. It was put to the claimant that he referred only in passing in his grievance to telling Prof Emeseh that the remarking of exams was not a good precedent because it touched on the integrity of the exams. He did not say that he told her that the remarking was unlawful. The claimant in cross-examination said that whenever academic integrity is questioned this raises a very serious wrongdoing.

227. The claimant said in his grievance that Prof Emeseh had said he released the results during the weekend because "I wanted the students to commit suicides when no one will rescue them." The claimant stood by that alleged comment in cross-examination. In describing the issue about him wishing to be removed from the contract law teaching group he described Mrs Cressey as extremely spiteful. He said: "She used to come to my office but after this incident she stopped, and I have experienced different kinds of attacks directly or indirectly including food poisoning that I had to stop keeping my foods in the faculty kitchen and use only hotel's fridge." Before the tribunal the claimant said that he believed he had clarified that he was not alleging that Mrs Cressey had poisoned his food.

228. When interviewed by Mrs Clyde-Evans as part of the grievance investigation, she asked him about his relationship with Mrs Cressey. In the context of explaining a change in Mrs Cressey's behaviour towards him in referred to "the food poisoning I experienced". When put to the claimant in cross-examination that he was implying that Mrs Cressey had something to do with his food, he explained to the tribunal that: "it might not be anyone... my assumption."

229. Miss Rogers made an assessment of the grievance. She referred to the guidance on overlapping grievance and disciplinary matters in the respondent's disciplinary policy. It set out that usually where internal processes are related, they will run concurrently. However, the disciplinary process may be temporarily suspended to deal with the grievance. Her assessment was that it was appropriate for the processes to run concurrently. She decided that the grievance under part A should be dealt with under a separate grievance process and that part B was inexorably linked to the ongoing disciplinary process and raised points that should properly be made and explored within it. She wrote to the claimant on 11 January 2024 to explain that approach.

230. As already referred to, the claimant was interviewed by Ms Clyde-Evans. He confirmed to the tribunal that he was not critical of her or her approach. There were two individuals who the claimant asked her to interview, but whom she did not. The claimant said that he thought her decision was a consequence of HR advice, particularly from Miss Rogers, not to interview people who had left the respondent's employment. Mrs Clyde-Evans told that tribunal that the advice she received from HR was

that the policy did not allow the respondent to contact those who had left their employment.

231. As regards a culture of bullying, the claimant referred to Dr Okukpon as being non-committal, Ajay Kumar as being silent and to Mrs Cressey mentioning unrealistic expectations in the school. Mrs Clyde-Evans told the tribunal that she did not consider Mrs Cressey's statement to be a suggestion of anything amounting to bullying. Dr Nalule was the only person clear that there was a culture of bullying. She said that people needed to give her some information if she were to find a culture of bullying. Dr Okukpon said she kept herself to herself and was not prepared to say anything either way. Mrs Clyde-Evans remembered feeling like something was there, but that she was not prepared to say what it was. There was a trend of people wanting to keep things private. She wondered why Ajay Kumar did not want a conversation but concluded that there could be lots of reasons for that. She was getting a lot of people saying that there was no culture of bullying or not saying. She had continued interviewing other people but felt that she couldn't go on and on. The investigation had to end at some point. Mrs Clyde-Evans considered that a recommendation that there be an anonymous staff survey should be made by her as that might elicit more information about behaviours within the school of law.
232. Mrs Clyde-Evans had no understanding from the claimant's grievance that he was a whistleblower and did not understand him to be raising any breach of a legal obligation.
233. The claimant's grievance was determined by Dr Martin, deputy dean of the faculty of life sciences at the time. The claimant did not know him. Dr Martin read the investigation report produced by Mrs Clyde-Evans as well as the claimant's initial grievance.
234. The claimant met with him on 23 April 2024. The claimant accepted that he had the opportunity to say everything he wanted to although not everything he said was reflected in the notes. Dr Martin's approach was to ask the claimant questions where he needed help to understand his grievance and supplement what he had already read. Notes were taken of the meeting which lasted around 90 minutes. Dr Martin accepted that they did not amount to a verbatim account and were relatively brief compared to what had been discussed.
235. At one point, the claimant is recorded as saying that the marking issues did not have anything to do with the probation issues. The claimant said that he had not seen the notes and therefore had not had the opportunity to correct this error. He had not said this.
236. Dr Martin produced an outcome letter dated 30 April 2024. He addressed in turn 3 headline issues: firstly that there was a bullying and harassment culture within the school of law towards BME employees; secondly that Prof Emeseh had continuously bullied and harassed and treated him unfairly; and thirdly that Mrs Cressey had continuously bullied, harassed and treated him unfairly.

237. It was noted from the investigation interviews of 7 staff from the school of law that all but one (Dr Nalule), both BAME and white staff, did not report that there was a culture of bullying and harassment. The claimant's contentions were based on his perception of incidents, but others offered a different perspective and the claimant did not provide any tangible evidence to support the first allegation.
238. Dr Martin then looked at the specific allegations against Prof Emeseh, including that his role of director of research was made more difficult by a lack of adequate induction, that his probation took longer than it should have, that the remarking of the employment module exams was a flawed process, that the claimant was dissatisfied with the circumstances of April professorial promotion he applied for, that Prof Emeseh operated an inner circle from which he felt excluded and that she was not professional in her manner towards him.
239. As regards Mrs Cressey, Dr Martin considered the allegation that the claimant experienced food poisoning, which he implied was related to Mrs Cressey's actions, that her interventions regarding the remarking of the employment module exams were not appropriate and that other interactions she had with the claimant both written and verbal were not appropriate.
240. He explained his conclusions into each complaint all of which were considered to be unfounded. As regards the allegation of bullying BME staff, he assessed all of the evidence but told the tribunal that he needed more than one or two isolated incidents to determine that there was a culture of bullying pertaining to the school as a whole. A bullying culture had not been established. He was aware that some academics had not been willing to answer questions, but there were many reasons why they might not wish to do so and he still could not draw a conclusion that there was a bullying culture. Dr Okukpon's statement that she had had unspecified conversations with others took him nowhere. He was aware that Mrs Clyde-Evans had suggested an anonymous survey and was aware that a further investigation had been launched following her recommendations, but one which she was not a party to. He noted Mrs Cressey had said that there was too much work and too little time and that expectations were sometimes unrealistic. He did not accept that this was a description of a bullying culture. It was quite normal for academics to be concerned about the level of expectations and there was no necessary inference of bullying. He was unable to come to a conclusion of any culture of treatment of staff based on their race. He had nevertheless considered how Mr Taylor was said to have been treated in respect of his communications as relied upon by the claimant.
241. The claimant complained that he did not receive a copy of the grievance meeting notes, as he was told that he would, at the start of the grievance meeting. He referred to a provision in the grievance policy which stated that facts gathered at a grievance meeting would be captured in a statement signed by the individual providing the information. He said that Dr Martin failed to provide this to him because of the claimant's protected disclosures. Dr Martin did not turn his mind to the issue of providing the claimant with the notes, which he left to HR. In the respondent's grievance

policy, after a section dealing with the grievance hearing, it is stated that: "Facts gathered at a grievance meeting will be captured in a statement signed by the individual providing the information." The notes of the grievance meeting were provided to the claimant after the outcome letter.

242. Dr Martin did not contact employees who had left the respondent. The claimant said that he made this decision because of the claimant's race and his protected disclosures.

243. Dr Martin concluded that the claimant had made an accusation that Mrs Cressey was responsible for food poisoning. Dr Martin considered it critical at the grievance meeting to establish if the claimant was making that allegation and the claimant said at the meeting that he was not. The claimant questioned how then Dr Martin could come to a conclusion that he had been making a malicious allegation. Dr Martin told the tribunal his view would have been better expressed as the claimant having "potentially" made a malicious allegation, but he thought that was a issue worthy of further investigation. He had been presented with a situation where Mrs Cressey had been deeply upset at the allegation. Mrs Clyde-Evans had read the grievance and took it as an allegation of food poisoning and had put that allegation to Mrs Cressey. The claimant had not offered to retract or clarify whether or not he was in fact making that allegation in the internal process and therefore he thought it was necessary for him to put that to the claimant. Whilst the claimant retracted the allegation, he had previously raised it as an allegation requiring investigation up to the point of its withdrawal. The claimant referred Dr Martin in cross-examination to a statement he had made to Mrs Clyde-Evans that he was not blaming anyone for him suffering from food poisoning. Dr Martin said that this did not change his view of the claimant having made an allegation against Mrs Cressey.

244. Dr Martin was also asked about his rejection of the claimant's allegation that Prof Emeseh rushed into his room. Dr Martin understood the allegation to be that, after she had received an email from the claimant, she rushed to and into his room. He found that to be improbable due to the distance between the rooms and Prof Emeseh's disability rendering her not capable of rushing. He realised that the claimant's account was that he himself was sitting in his office with his door shut. Nevertheless, the allegation was of moving from point A to point B with great pace.

245. The claimant suggested that Dr Martin was confused with the handover in respect of the position he was taking on of director of research and the claimant's induction. He believed that Dr Martin had deliberately confused the issues because of the claimant's protected disclosures. When the claimant was taken to Dr Martin's conclusions expressly about the director of research role, he said that he saw what he was saying but that did not mean that he understood the claimant's grievance. Dr Martin did not recall the claimant referring to a difference in treatment being because of race. He said that he knew nothing about the colour or ethnicity of the outgoing research lead who from her name, Sana, he assumed to be a BME member of staff.

246. The claimant said that Dr Martin preferring Prof Emeseh's evidence to his own over the probation period issue was unfair, not based on evidence and because of the claimant's protected disclosures.
247. The claimant said that he had told Dr Martin that he had not seen any document extending his probation at the six-month review point. Dr Martin preferred Prof Emeseh's evidence that the claimant was aware of and accepted an extension of his probation at the six-month point. He did not understand the claimant's reference to the integrity of exams as amounting to a whistleblowing disclosure. He did not read it as the claimant referring to a breach of legal obligation. He simply thought the claimant was raising a grievance. He had treated it as such and still would. The claimant maintained that there was no reason for the employment exams to be re-marked. Dr Martin accepted the claimant evidence as provided by him that he had applied for the professorship role. He determined that there was no evidence of the inner circle claimed by the claimant. He preferred Prof Emeseh's evidence regarding allegations of inappropriate interactions with the claimant. The claimant maintained that there were deliberate omissions in the outcome in respect of some of the matters he raised. Dr Martin misunderstood the allegation regarding the poisoning of food.
248. The claimant submitted an appeal against the grievance outcome on 30 April 2024. He agreed that he did not base his appeal on Dr Martin having rejected his grievance because of any protected disclosures. The claimant said that he had raised that Dr Martin was biased and had mentioned the things which led to his whistleblowing.
249. Prof Priest, dean of the faculty of engineering and digital technologies, was appointed to determine the claimant's grievance appeal. The claimant accepted that he was an appropriate person to hear it. Prof Priest's initial view of the appeal was that the main thrust of it was that the claimant did not agree with Dr Martin's conclusions. He met with Dr Martin on 16 July and took him through the claimant's points of appeal. Prof Priest believed that Dr Martin's failure to send to the claimant the grievance meeting notes was not intentional. Dr Martin explained that he believed he had sufficient evidence without interviewing staff who had left the respondent to determine the claimant's grievance. He also explained that he had formed the clear view that the claimant had agreed to the extension of his probation. Mr Priest considered that issues about marking do not uncommonly arise in an academic context. Whether or not the claimant had agreed about the six-month probation being extended, that would not change the outcome of the grievance. Prof Priest went through the apparent omissions from the minutes with Dr Martin who was clear that he did not recall any of the additional points raised by the claimant having being discussed. Dr Martin explained that he had made the comments in relation to the food poisoning allegation because it was his view that there was no basis upon which the claimant could make that allegation. Dr Priest considered that the only way to reasonably interpret the original grievance was that an allegation was being made that Mrs Cressey had poisoned the claimant's food.

250. Prof Priest saw nothing unusual or problematical in the notes produced of Dr Martin's hearing with the claimant. He did not understand there to be a breach of policy in those notes not having been sent to the claimant before the outcome decision. He commented that it would not be Dr Martin who would send the notes but rather someone from administration. He noted that the decision could permissibly in fact have been given at the hearing itself. As regards the extension of probation, he considered that the reasons given for the extension were nothing exceptional and that it was not unusual for probation to be extended for some of the reasons given. He did not believe, as suggested by the claimant in cross-examination that the six-month review form had been suppressed by Prof Emeseh to avoid any awareness that the claimant was raising issues regarding the manager employee relationship. He felt that Dr Martin had dealt with the evidence well and had addressed the claimant's concerns though not necessarily in the way the claimant had listed them.
251. On 17 July 2024, the claimant confirmed by email that he wanted his appeal to be decided on the papers. He sent further information by way of annotations to the investigation report. Prof Priest considered that the claimant was essentially revisiting issues from the original investigation and disciplinary hearing and that no new evidence was in fact provided.
252. On 31 July 2024 he provided the appeal outcome dealing with the grounds of appeal. As regards the allegation of manifest injustice and bias, Prof Priest concluded that the claimant was raising issues with Dr Martin's conclusions because he simply disagreed with them. He found no evidence of unfairness, intentional or not. Whereas the claimant maintained that Dr Martin simply paid lip service to his grievances, Prof Priest's assessment was that Dr Martin had dealt with them in an analytical way. All of his grievance outcome responses were reasonable.
253. Dr Nalule gave evidence that she had experienced bullying from Prof Emeseh from around August 2022 until she was removed as her line manager, initially on a temporary basis, at the end of 2023. She said that her own probation had been extended. She had not been given an official reason or received any email from HR confirming this, but she had been told by Prof Emeseh in a meeting that it was due to a lack of communication. She said that she was surprised and the reason was not clear to her. She described the Prof Emeseh did not like her involving other professional colleagues when issues arose about her performance. She described Prof Emeseh as trying to frame her as regards an inaccurate allegation about her missing a class. She described Prof Emeseh as acting in concert with another associate professor who was a close friend of hers, Pedi. She said that her promotion had been denied by Prof Emeseh.
254. Dr Nalule was not aware of any other colleague raising a formal concern about Prof Emeseh. When asked why she felt she had been discriminated against by Prof Emeseh, she said that it was because she was not close to her. There were people close to her and who did everything with her socially. Dr Nalule is of Ugandan national origin as opposed to Prof Emeseh and Pedi, who were from Nigeria. This created a

difference/distance between them. Prof Emeseh had become problematic over Dr Nalule's work activities outside of the respondent.

255. Dr Nalule had no knowledge of how white members of staff had been treated by Prof Emeseh or if any such people had themselves complained about her. She was told by Ilias Kapsis of white/Greek ethnicity/national origin that he believed he had been mistreated by Prof Emeseh. Dr Nalule had raised concerns about the treatment of her by Prof Emeseh in response to which she said that the respondent was supportive. She had not wanted to pursue them as a grievance, but she described HR as raising a grievance on her behalf and doing all they could to try to investigate her concerns. Dr Nalule had declined to provide any evidence herself – she attended a first investigatory interview with Mrs Clyde-Evans but she told the tribunal that she did not wish to pursue the matter as she felt that it was not worth it. She agreed that Prof Emeseh had in fact supported her promotion. The tribunal has seen a (glowing) statement of support submitted to the promotion panel by Prof Emeseh. Dr Nalule believed that Prof Emeseh had no choice as she knew that there were no reasonable grounds to deny her promotion. However, she did not know what Prof Emeseh said to the panel.

256. Prof Emeseh told the tribunal that she was at liberty to put in whatever type of statement she chose – including one which did not support a promotion. It was something in her gift as line manager. Ordinarily, as a faculty member she would have been on the promotion panel. However, as part of the initial findings on the claimant's grievance, she saw Dr Nalule's statement critical of her. She decided to recuse herself and not be involved in the promotion decision because of the potential for a perception of bias. Following the panel decision, HR sent her the decision and she invited Dr Nalule to a meeting to discuss it. The main issue was a number of research projects undertaken by Dr Nalule not being logged on the respondent's system and not being eligible for inclusion in the periodic REF.

257. Prof Emeseh explained that Dr Nalule had been assigned an alternative line manager pending the conclusion of her own grievance investigation. HR had then written to her saying that she would return as line manager. However, Prof Emeseh had also been appointed interim dean and, because of the pressure of her workload, a deputy head of school had been appointed. All grade 8 and 9 lecturers and assistant professors were assigned to be managed by her new deputy, Charles Wild.

258. Prof Emeseh denied the existence of a culture where she sought to oppress black rather than white staff because she could effectively get away with it. She said that she did not favour one group over another and dealt with each person within the school on the facts regardless of the race or ethnic origin. She was responsible for the employment of each of the BME staff within the school and worked closely with them all. No one else had raised allegations of race discrimination against her. She did not recognise any difference in treatment of an individual from Nigeria rather than, for instance, Uganda as was Dr Nalule's inference. She referred to a colleague from Kenya interviewed as part of the claimant's grievance to dispute any claims of favouritism.

259. She described the suggestion that she was conspiring to frame the claimant by means of student A's purported complaint as preposterous saying that to think that there was an elaborate conspiracy involving so many people as the claimant alleged was fantastical.

Applicable law

260. In a claim of unfair dismissal, it is for the employer to show the reason for dismissal and that it was a potentially fair reason. One such potentially fair reason for dismissal is a reason related to conduct under Section 98(2)(b) of the Employment Rights Act 1996. This is the reason relied upon by the respondent.

261. If the respondent shows a potentially fair reason for dismissal, the tribunal shall determine whether dismissal was fair or unfair in accordance with Section 98(4) of the ERA, which provides:-

“ [Where] the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) –

- (a) depends upon whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and*
- (b) shall be determined in accordance with equity and the substantial merits of the case”.*

262. Classically, in cases of misconduct, a tribunal will determine whether the employer genuinely believed in the employee's guilt of misconduct and whether it had reasonable grounds after reasonable investigation for such belief. The burden of proof is neutral in this regard.

263. The tribunal must not substitute its own view as to what sanction it would have imposed in particular circumstances. The tribunal has to determine whether the employer's decision to dismiss the employee fell within a band of reasonable responses that a reasonable employer in these circumstances might have adopted. It is recognised that this test applies both to the decision to dismiss and to the procedure by which that decision is reached.

264. A dismissal, however, may be unfair if there has been a breach of procedure which the tribunal considers as sufficient to render the decision to dismiss unreasonable. The tribunal must have regard to the ACAS Code of Practice on Disciplinary and Grievance Procedures 2015.

265. If there is such a defect sufficient to render dismissal unfair, the tribunal must then, pursuant to the case of **Polkey v A E Dayton Services Ltd [1998] ICR 142**, determine whether and, if so, to what degree of likelihood the employee would still have been dismissed in any event had a proper procedure been followed. If there was a 100% chance that the employee would have been dismissed fairly in any event had a fair procedure been followed, then such reduction may be made to any compensatory award. The principle established in the case of **Polkey** applies widely and beyond purely procedural defects.

266. In addition, the Tribunal shall reduce any compensation to the extent it is just and equitable to do so with reference to any blameworthy conduct of the claimant and its contribution to his dismissal – Employment Rights Act 1996 Section 123(6). It is then for the tribunal itself to determine on the balance of probabilities whether the employee was guilty of the alleged conduct. The same principle applies when determining whether the employee is guilty of gross misconduct such as to allow the respondent to terminate his employment without notice.

267. Under Section 122(2) of the Act, any basic award may also be reduced when it is just and equitable to do so on the ground of any kind of conduct on the employee's part that occurred prior to the dismissal.

268. The claimant complains of direct race discrimination. In the Equality Act 2010 direct discrimination is defined in Section 13(1) which provides: *"(1) 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."* In terms of a relevant comparator for the purpose of Section 13, *"there must be no material difference between the circumstances relating to each case"*.

269. The Act deals with the burden of proof at Section 136(2) as follows:-

- a. *"(2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravenes the provision concerned, the court must hold that the contravention occurred."*
- b. (3) *But subsection (2) does not apply if A shows that A did not contravene the provisions".*

270. In **Igen v Wong [2005] ICR 935** guidance was given on the operation of the burden of proof provisions in the preceding discrimination legislation albeit with the caveat that this is not a substitute for the statutory language.

The Tribunal also takes notice of the case of **Madarassy v Nomura International Plc [2007] ICR 867**.

271. It is permissible for the Tribunal to consider the explanations of the respondent at the stage of deciding whether a prima facie case is made out (see **Laing v Manchester CC IRLR 748**). Langstaff J in **Birmingham CC v Millwood 2012 EqLR 910** commented that unaccepted explanations may be sufficient to cause the shifting of the burden of proof. At the second stage the employer must show on the balance of probabilities that the treatment of the claimant was in no sense whatsoever because of the protected characteristic. At this stage the tribunal is simply concerned with the reason the employer acted as it did. The burden imposed on the employer will depend on the strength of the prima facie case – see **Network Rail Infrastructure Limited v Griffiths-Henry 2006 IRLR 865**.

272. The Tribunal refers to the case of **Shamoon v The Chief Constable of the Royal Ulster Constabulary [2003] ICR 337** for guidance as to how the Tribunal should apply what is effectively a two-stage test. The Supreme Court in **Hewage v Grampian Health Board [2012] UKSC 37** made clear that it is important not to make too much of the role of the burden of proof provisions. They will require careful attention where there is room for doubt as to the facts necessary to establish discrimination. However, they have nothing to offer where the tribunal is in a position to make positive findings on the evidence one way or the other.

273. Complaints of race-related harassment are brought pursuant to Section 26 of the Equality Act 2010 which states:

1. *“(1) A person (A) harasses another (B) if -*
 - a. *A engages in unwanted conduct related to a relevant protected characteristic, and*
 - b. *the conduct has the purpose or effect of—*
 - c. *violating B's dignity, or*
 - d. *creating an intimidating, hostile, degrading, humiliating or offensive environment for B.....*
2. *(4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account—*
3. *the perception of B;*
4. *the other circumstances of the case;*

5. *whether it is reasonable for the conduct to have that effect."*

274. Harassment will be unlawful if the conduct had either the purpose or the effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

275. A claim based on "purpose" requires an analysis of the alleged harasser's motive or intention. This may, in turn, require the tribunal to draw inferences as to what the true motive or intent actually was. The person against whom the accusation is made is unlikely to simply admit to an unlawful purpose. In such cases, the burden of proof may shift from accuser to accused.

276. Where the claimant simply relies on the "effect" of the conduct in question, the perpetrator's motive or intention – which could be entirely innocent – is irrelevant. The test in this regard has, however, both subjective and objective elements to it. The assessment requires the tribunal to consider the effect of the conduct from the claimant's point of view. It must also ask, however, whether it was reasonable of the claimant to consider that conduct had that requisite effect. The fact that the claimant is peculiarly sensitive to the treatment accorded him does not necessarily mean that harassment will be shown to exist.

277. Section 123 of the Equality Act 2010 provides for a three-month time limit for the bringing of complaints to an Employment Tribunal. This runs from the date of the act complained of and conduct extending over a period of time is to be treated as done at the end of the period. The tribunal has an ability to extend time if it is just and equitable to do so, but time limits are strict. The person seeking an extension should provide an explanation for the delay but regardless of that there will, fundamentally, be a balance to be conducted between the parties in terms of the interests of justice and the risk of prejudice.

278. Section 43A of the Employment Rights Act 1996 provides that a "protected disclosure" means a qualifying disclosure (as defined by Section 43B) which is made by a worker in accordance with any of the Sections 43C to 43H. Section 43B of the Employment Rights Act 1996 provides as follows:-

“(1) *In this Part a “qualifying disclosure” means any disclosure of information which, in the reasonable belief of the worker making the disclosure, is in the public interest and tends to show one or more of the following:-*

- ...
(a) *that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject...*
(b) *that the health and safety of any individual has been or is likely to be endangered;”*

279. It is clear that a disclosure must actually convey facts and those facts must tend to show one of the prescribed matters – see **Cavendish Munro Professional Risks Management Ltd v Geduld 2010 ICR**. The making of an allegation or the expression of opinion or state of mind is insufficient. Langstaff J noted, however, in **Kilrairie v London Borough of Wandsworth 2018 ICR 1850** (as endorsed by the Court of Appeal in that case) that “the dichotomy between “information” and “allegation” is not one that is made by the statute itself” and that “it would be a pity if tribunals were too easily seduced into asking whether it was one or the other when reality and experience suggest that very often information and allegation are intertwined”. Nevertheless, a protected disclosure has to have sufficient factual content and specificity – sufficient to be capable of tending to show, for instance, a breach of legal obligation. This is a matter for the evaluative judgement of the tribunal.

280. The context in which information is provided is relevant to the tribunal’s determination. Two or more communications taken together can amount to a qualifying disclosure even if, taken on their own, each communication would not – see **Norbrook Laboratories (GB) Ltd v Shaw ICR 540**.

281. In terms of a reasonable belief, the focus is on what the worker in question believed rather than on what a hypothetical reasonable worker might have believed in the same circumstances. There must, however, be some objective basis for the worker’s belief. The exercise involves applying an objective standard to the personal circumstances of the person making the disclosure. It has been said that the focus on belief establishes a low threshold. However, the reasonableness test clearly requires the belief to be based on some evidence beyond rumours, unfounded suspicions or uncorroborated allegations.

282. As regards the public interest requirement, the tribunal refers to the case of **Chesterton Global Limited v Nurmohamed [2017] IRLR 837** where Underhill LJ cited the following factors as a useful tool in determining whether it might be reasonable to regard a disclosure as being in the public interest as well as in the personal interest of the worker:

- i. “the numbers in the group whose interests the disclosure served.....;*
- ii. The nature of the interests affected and the extent to which they are affected by the wrongdoing disclosed – a disclosure of wrongdoing directly affecting a very important interest is more likely to be in the public interest than a disclosure of trivial wrongdoing affecting the same number of people, and all the more so if the effect is marginal or indirect;*
- iii. the nature of the wrongdoing disclosed – disclosure of deliberate wrongdoing is more likely to be in the public interest than the disclosure of inadvertent wrongdoing affecting the same number of people;*
- iv. the identity of the alleged wrongdoing –... “The larger or more prominent the wrongdoer (in terms of the size of its relevant community, i.e. staff, suppliers and clients), the more obviously should a disclosure about its activities engage the public interest...”*

283. Workers can have mixed motives for making disclosures and it was observed in **Chesterton** that the tribunal’s power to reduce compensation where a disclosure was not made in good faith demonstrates an intention that some disclosures would qualify for protection though they were predominantly motivated by grudges or self-interest. Nevertheless, motive is likely to be one of the individual circumstances to taken into account by the tribunal when considering whether there was a reasonable belief that the disclosure was in the public interest. An employee who cannot give credible reasons why they thought at the time that the disclosure was made that it was in the public interest, may cast doubt on whether they really thought so at all.

284. Where the reason or, if more than one, the principal reason for an employee’s dismissal is that he made a protected disclosure then that dismissal is automatically unfair under Section 103A of the Employment Rights Act 1996.

285. Pursuant to Section 47B of the Employment Rights Act 1996: “A worker has the right not to be subjected to any detriment by an act, or any deliberate failure to act, by his employer done on the ground that the worker made a protected disclosure.”

286. As regards the meaning of “detriment” the tribunal refers to the case of **Chief Constable of West Yorkshire Police –v- Khan [2001] 1 WLR** where it was said that the term has been given a wide meaning by the Courts and quoting the case of **Ministry of Defence –v- Jeremiah [1980] QB 87** where it was said that “*a detriment exists if a reasonable worker would or might take the view that the [treatment] was in all the circumstances to his detriment*”.

287. Section 48(2) provides that on a complaint to an Employment Tribunal

“... it is for the employer to show the ground on which any act, or deliberate failure to act, was done.”

288. The issue of causation is crucial. The tribunal refers to the case of **NHS Manchester v Fecitt and others [2001] EWCA Civ 1190** and in particular the judgment of Elias LJ. His view was that section 47B will be infringed if the protected disclosure materially influences (in the sense of being more than a trivial influence) the employer’s treatment of the whistleblower. He said:

*“Once an employer satisfies the Tribunal that he has acted for a particular reason – here, to remedy a dysfunctional situation – that necessarily discharges the burden of showing that the proscribed reason played no part in it. It is only if the Tribunal considers that the reason given is false (whether consciously or unconsciously) or that the Tribunal is being given something less than the whole story that it is legitimate to infer discrimination in accordance with the **Igen** principles”.*

289. Whether detriment is on the ground that the claimant made a protected disclosure therefore involves an analysis of the mental processes (conscious or unconscious) of the relevant decision makers. It is not sufficient to demonstrate that “but for” the disclosure, the employer’s act or omission would not have taken place.

290. As confirmed by the Court of Appeal in **Timis v Osipov [2019] ICR 655** the concept of detriment excludes a claim against the employer in respect of its own act of dismissal. There is in this case no claim against an individual respondent in respect of a decision to dismiss. The claimant’s claim is separately pursued against the respondent as one of automatic unfair dismissal.

291. Complaints of whistleblowing detriment must be brought before the end of the period of three months beginning with the date of the act or failure to act or, where the act is part of a series of similar acts, the last of them. Otherwise, for the tribunal to have jurisdiction, it must consider that it was not reasonably practicable for the complaint to have been presented in time and that it was submitted in a reasonable time after the expiry of the time limit.

292. Applying the legal principles to the facts as found, the tribunal reaches the following conclusions with reference to the paragraph numbers in the list of issues which the tribunal has attempted to list chronologically and group thematically.

Conclusions

PID 4.1.6 On or around 07 October 2022 the Claimant asked Professor Emeseh to refer to his email that the remarking led to students who failed to be passed and even awarded higher grades, which were not merited

293. The tribunal has not been able to come to a positive conclusion that this meeting or discussion occurred. It does not, therefore, find there to have been the pleaded protected disclosure.

294. In these conclusions, the tribunal has nevertheless in the case of all alleged protected disclosures gone on to conduct an analysis on the basis of there having been a disclosure and it amounting to a protected disclosure.

295. If this disclosure had been made, then the claimant relies on an effective repetition of what he said in his emails of 15 and 21 June 2022. In the first of those communications, the claimant expresses clear disagreement regarding the remarking of the employment module assessments undertaken by the non-lawyer postgraduate students. He said that his suggestion would ensure that results were not overinflated. His communication was expressed to be a personal note to Prof Emeseh. He agreed in cross-examination that he did not say there was a breach of a legal obligation. Nor did he say so on 21 June in a communication expressed to be private and off the record. There he noted a series of discrepancies and inconsistencies in some individual scripts. He did not refer to a remarking amounting to a violation of standards or policies, though maintained in evidence that that was in his thoughts.

296. The claimant appears to consider that it ought to be taken as self-evident that a complaint about the marking of exams amounted to a complaint of a breach of a legal obligation. The tribunal does not, however, consider that anything of the sort was in his mind at all, yet alone reasonably

believed by him at the time the emails were sent or further reference was made to them.

297. The claimant has not sought to substantially assist the tribunal in identifying the legal obligation relied upon. He has directed the tribunal to the Higher Education and Research Act 2017 but this, as the claimant must have appreciated as a legal academic and associate professor in law, places no legal obligation upon the respondent. The tribunal does not find that the claimant had this in mind at the time of any disclosure.

298. The issue of remarking arose in the context where the claimant believed his performance to be under criticism which he believed to be unwarranted. He was upset that a quick decision was made, effectively over his head, without full consultation with him. This remained, after June 2022, an issue the claimant wanted to revisit because it was the main reason for an extension to his period of probation. It was his personal individual dispute. There was no belief that he was making a disclosure in the public interest. The labelling of these communications as a personal note or them being “off the record” is inconsistent with that.

299. There was within these emails or a further reference to them no protected disclosure.

PID 4.1.7 On 10 October 2022 the Claimant informed Professor Emeseh orally that remarking the students reflected badly on the academic integrity of the exams

300. The tribunal has concluded that no meeting or discussion took place between Prof Emeseh and the claimant on this day. An effective dispute between colleagues had arisen regarding appropriate communication with students and Prof Emeseh had emailed both the claimant and Mrs Cressey saying that a meeting between them would be arranged. There was no meeting to discuss the communication issues until 14 October and there was little time for individual discussions which the claimant maintained took place between Prof Emeseh, himself and Mrs Cressey on 10 October 2022.

301. If (contrary to the tribunal's findings) there had been those discussions, then the claimant is more likely than not to have raised the exam marking in the same context explained in respect of the earlier alleged protected disclosure 4.1.6. The concentration of any meeting would have been on the immediate issue of communication with students. The claimant may well within any conversation have revisited the issue of his probation extension which continued to play on his mind, but the context then in which he might have raised anything alluding to academic integrity would have been his individual disagreement as to the previous remarking exercise and how it affected him. Whilst a purported statement (which the

tribunal is unable to find was made by him in any event) that the remarking reflected badly on academic integrity comes closer to alleging a breach of a legal obligation, the tribunal considers that the claimant still falls short of providing information which tended in his reasonable belief to show a breach of a legal obligation. At most he was suggesting a breach of internal policy. Again, the claimant at this stage was concerned with his own position and a professional disagreement, rather than holding a reasonable belief that he was making a disclosure in the public interest.

302. Had the claimant been allowed to pass his probation, rather than it being extended in July 2022, the evidence is not suggestive that the claimant would ever have raised the issue of remarking again. He did not seek to raise the issue formally as a whistleblowing disclosure whether internally or to any prescribed person or alternative regulatory authority. That applies then even after he believed that he had been treated to his detriment. If the claimant believed that such a fundamental principle for an academic (on his own account) had been breached, he is unlikely to have taken no further steps.

Detriment 5.1.2 On or around 10 October 2023 Professor Emeseh informed the Claimant she would not have asked him to apply for the advertised Professor position. PID 4.1.6 and 4.1.7

303. The tribunal has concluded that this comment was never made on that day by Prof Emeseh. There was little scope for such a conversation to have taken place on that day given the other issues which arose. Further, Prof Emeseh had never asked the claimant to apply for the advertised role. The claimant had decided to apply and Prof Emeseh became aware of his application when she saw it logged on the system. She was to be involved in any selection process as head of school. She did not then or at any time thereafter say that she would or would not support his application. The claimant's complaint is not indeed that she blocked his application for the role or ensured that he did not pass an initial sift of applications.

304. The issue in fact raised by the claimant was that he was concerned that there might be a conflict of interest in him attending presentations by academic candidates who had been longlisted for the position and in him providing feedback given that he had been one of the original applicants for the role himself. He was assured that there was no conflict of interest and the evidence is that his involvement at that stage would have been entirely routine and proper.

305. Had the aforementioned disclosures regarding the remarking exercise in June been protected disclosures, there is no evidence to suggest a linkage between the claimant's treatment in respect of this professorial application and the disclosures. The claimant's application appears to have been somewhat ambitious in the context of such short service with the respondent and being still in a period of probation - even

on the claimant's own case (that he had been unaware of an extension of his probation period), he was still aware that he was applying for a professorship whilst still in probation. His colleague, Dr Kapsis, who had been with the respondent for an extended period also failed to make the longlist. In cross-examination, the claimant actually agreed with the suggestion that the reason for his lack of success arose out of the extension of his probation period. The claimant appeared to have a lack of awareness that he was in these proceedings seeking to link any complaint about the appointment to any earlier protected disclosure.

PID 4.1.1 On 14 October 2022 the Claimant stated "*this is like indirect bullying and harassment*" which the Claimant noticed as a culture affecting many staff, orally, to Professor Emeseh

306. The tribunal has not found that statement to have been made by the claimant on that day. Certainly, if it had been said, then the claimant within it conveys no information - it is a bare allegation and the tribunal cannot infer from it a reasonable belief that the comment tended to show any breach of a legal obligation.

307. The tribunal has not found that Prof Emeseh repeated an alleged comment made by Mrs Cressey to the claimant in the kitchen on 13 October. The claimant says that Prof Emeseh spoke about the claimant's family and that was the forerunner to him commenting, as per his witness statement evidence, that it was like "bullying and harassment in disguise". It is not clear what might have been "disguised" and his evidence does not match the allegation of the claimant referring to "indirect" bullying and harassment. The tribunal has no idea in what sense Prof Emeseh might be being said to be guilty of "indirect" ill-treatment of the claimant – the whole tenor of the allegations is that her treatment of him was quite deliberate and direct. The claimant is not a reliable narrator and is clearly a talker rather than a listener. Perhaps the best evidence of how a conversation might have progressed is provided in the audio recording of the claimant's conversation with Prof Emeseh on 6 October 2023 where the claimant talked at length without allowing Prof Emeseh an opportunity to speak. At that later meeting, she was clearly struggling to get her point across. She saw behaviour of this nature from the claimant to be classifiable as a form of hyper- masculinity at odds with her own feminist beliefs and efforts to break down more patriarchal aspects of her cultural background with a fellow Nigerian. She may well have queried whether the claimant spoke to his wife as he was speaking to her. In such context, any complaint by the claimant encompassed no belief of a breach of a legal obligation and certainly not one which he reasonably believed to possess any public interest characteristic.

Detriment 5.1.1 Professor Emeseh extended the Claimant's probation from October 2022 to August 2023. PID 4.1.1

308. The tribunal has accepted Prof Emeseh's evidence that she decided to extend the claimant's probation in July 2022. Such decision cannot therefore have been because of any of the aforementioned pleaded protected disclosures, if indeed they had been found to be protected disclosures.

309. If, alternatively, the claimant is correct that the probation extension was only made on or before 14 October then it must be the claimant's case that his probation was extended because he reminded Prof Emeseh of his views as to the remarking exercise in June 2022.

310. The tribunal does make a positive conclusion that the reason for the extension of the claimant's probation was primarily that there was a lack of confidence in the claimant after the marking issues which arose with the employment law module prompting the respondent to require the claimant to show that he could successfully navigate a further marking cycle which would be completed in February 2023. The other main issue of concern was the claimant's style and tone of communication which was liable to upset colleagues and appear dismissive to students. In no sense whatsoever was the decision to extend the claimant's probation because of his assertions as to the inappropriateness or impropriety of remarking the papers submitted by the non-lawyer cohort of postgraduate students.

Detriment 5.1.13 On or around 14 October 2022 Professor Emeseh refused the claimant's request to be moved from the contract law teaching group.

311. Any refusal of a request to be removed from the teaching of contract law occurred no later than 27 July 2022. The tribunal has not found there to be any repetition on 14 October 2022.

312. The nature of the alleged detriment is that the claimant did not feel qualified to teach contract law, had asked to be removed, had thought that this had been agreed, but then discovered that he was still required to teach it. The respondent appeared to consider the claimant well capable of teaching contract law and an appropriate person to be on the contract law team managed by Mrs Cressey. The evidence is that an associate professor of law is likely to have had sufficient knowledge of what is a core module of the law degree to be able to teach it at undergraduate level. The claimant makes no complaint with reference to his general overall workload. Indeed, the claimant's response of 27 July 2022 to the news that Prof Emeseh did not believe they had agreed for him to be removed from the team was to thank her for clarifying.

313. In any event, had the claimant made the protected disclosures pleaded, the respondent's and Prof Emeseh's decision pre-dated them. Any decision that he remained part of the contract law team (or indeed a

repetition of a decision already made) cannot have been because of any protected disclosure relied upon. The reason for the claimant's allocation was and remained the need to appropriately allocate teaching resources.

Detriment 7.2.1 On or around 14 October 2022 Professor Emeseh did not criticise Julia Cressey for her email criticising the claimant, but did criticise the claimant and called to rebuke the claimant in front of Julia Cressey for the email he sent criticising her, and told the claimant that he needed to produce evidence that a student had complained about Julia Cressey. (Comparator Julia Cressey) (s.13/26)

314. The meeting between Prof Emeseh, Mrs Cressey and the claimant was called by Prof Emeseh to resolve a conflict which had arisen between two academic colleagues. Mrs Cressey had considered the claimant's communication with a student to be at best "brusque" and Prof Emeseh had called a meeting to seek to reach a common understanding against a background of her having recently spoken to all the academics within the school as a group about the need to communicate appropriately with students. Objectively, the claimant's communication to the student was dismissive and one in respect of which he ought reasonably have expected to be criticised. Prior to the meeting, the claimant had somewhat gone on the attack by suggesting that Mrs Cressey was the subject of student complaints. The example he had in mind and sought to discuss at the meeting, however, was not of an inappropriately worded communication, but of an instance where it appeared that Mrs Cressey had not been able to respond to a student request in a timely manner. The communications between the claimant and Mrs Cressey illustrated a potentially fractured relationship which Prof Emeseh wished to nip in the bud. The claimant was told that his own form of communication with the student was unsatisfactory, but there was no comparable communication by Mrs Cressey to any student.

315. Mrs Cressey wanted the claimant to produce the evidence he said he had of students complaining about her.

316. The claimant was not treated less favourably than Mrs Cressey in comparable circumstances. The claimant has shown no facts from which the tribunal could reasonably conclude that any difference in treatment was in any sense whatsoever because of race. Nor is there any basis for concluding that the approach taken by Prof Emeseh was related in any way to race.

317. Prof Emeseh advised the claimant about the need to communicate appropriately with students because she believed he needed that direction and reminder to be appropriate. There was no issue of any inappropriate communication sent by Mrs Cressey to a student. Nevertheless, both were reminded of the emphasis Prof Emeseh had given to good communications with students at the previous school meeting.

318. All of the complaints of race discrimination allegedly perpetrated by Prof Emeseh are essentially based on a contention that she oppresses

black academics because she is able to and able to get away with it. Though barely articulated by the claimant, she is alleged to adopt the characteristics of an institutional hierarchy which favours white academics. In circumstances where no positive case of discrimination is asserted against any of the other alleged perpetrators of the alleged ill-treatment of the claimant, his case appears to be that they are essentially doing Prof Emeseh's bidding.

319. Both the claimant and Prof Emeseh are black Nigerian. Dr Nalule described feeling isolated and not part of Prof Emeseh's inner circle, whereas other favoured academics would socialise with Prof Emeseh and provide domestic assistance to her. Dr Nalule is black and of Ugandan national origin. The tribunal had thought that her evidence was being relied upon to show a similar cultural exclusion of the claimant in circumstances where he did not share Prof Emeseh's Nigerian national origin, but that is obviously not the case. The tribunal notes that amongst those who did not criticise Prof Emeseh were another Nigerian and a Kenyan academic.

320. The tribunal has not accepted that Prof Emeseh told the claimant that she did not like people with experience which the claimant sought to rely on in support of an inference that Prof Emeseh wanted to subjugate him as a black academic.

321. The School of Law at the respondent is ethnically diverse with 13 out of 20 BME academics. The vast majority of them were appointed under Prof Emeseh's tenure as head of school.

322. The investigation of Mrs Clyde-Evans into the claimant's grievance did not make a finding of there being a bullying culture whether related to race or otherwise. She was concerned that some academics might not have been willing to open up to her about their individual views, but she recognised that this could be for a variety of reasons. Three BME academics interviewed did give positive evidence that they did not feel bullied. Prof Kumar did prefer to remain silent.

323. Dr Nalule and Prof Kumar did suffer the extension of their probation in common with the claimant. Dr Nalule had suggested in a request of the respondent to investigate her situation on 1 December 2003, that concerns about "communication" was being used as a pretext for bullying by extending their probation. She suggested that this applied similarly in the case of Prof Kumar. In the grievance investigation, however, Prof Kumar said that his probation was delayed due to Covid. He had no complaint about his probation process.

324. Perhaps surprisingly, Mrs Cressey, a white British academic, is relied upon as someone who was the victim of bullying because of her reference to excessive expectations and workload. Whilst the tribunal does not consider she was therein suggesting a culture of bullying, the claimant's suggestion that she was, is not indicative of white academics being treated more favourably.

325. The aforementioned do not provide a factual context from which the tribunal could reasonably draw an inference that Prof Emeseh suppressed BME academics in contrast to more favourable treatment afforded to white academics. In none of the complaints of discrimination has the claimant been able to show a prima facie case or shift the burden of proof.

Detriment 7.2.2 On or around 15 October 2022 Professor Emeseh failed to hold Chris Taylor to account for his inappropriate emails to the claimant (comparator Chris Taylor) (s.13/26)

326. The claimant seeks to compare how he was treated for an allegedly inappropriate communication to the treatment of Dr Chris Taylor. Dr Taylor sent an intemperate communication to the claimant - a communication between colleagues of similar status rather than from a member of academic staff to a student. This is not a situation comparable with the claimant's communication to a student as was criticised by Mrs Cressey. Prof Emeseh was not faced with a similar lack of common understanding between colleagues.

327. Prof Emeseh saw instantly an inappropriateness in Dr Taylor's communication to the claimant. She saw nothing problematical in the claimant's own communications to Dr Taylor. She therefore sought to resolve the matter quickly by speaking to Dr Taylor to advise him to communicate with colleagues more respectfully.

328. Again, the claimant has shown no facts from which the tribunal could reasonably conclude that her approach was in any sense whatsoever because Dr Taylor is white rather than black. Nor is there any basis for concluding that her approach was in any sense whatsoever related to race. Prof Emeseh dealt with the matter through a quick conversation directly with Dr Taylor as she thought that that would quickly resolve what on its face was a relatively minor expression of frustration from one colleague to another.

Detriment 5.1.3 On or around 13 June 2023, Julia Cressey, with the knowledge and or support of Professor Emeseh, made an allegation of misconduct against the Claimant. PID 4.1.1, 4.1.6 and 4.1.7

329. The tribunal has concluded that Mrs Cressey and Prof Emeseh were not seeking to frame the claimant for an act of misconduct they did not believe had occurred in order to remove him from the respondent. Nor is there any evidence of a conspiracy between them or more widely. Mrs Cressey did genuinely receive an email from a student, for which she was the designated PAT, which was something of a red flag in that the student appeared to be fearful as to how the claimant might mark her assessment. She spoke to the student and reported the conversation to Prof Emeseh. They then agreed to follow this up with the student after the completion of the marking of the final year assessments to see whether the student wished to take the matter any further. Mrs Cressey contacted the student to see if she did. Understanding, that the student did wish the matter to be dealt with formally, she prepared a note of what she had been told by the

student which was passed to Prof Emeseh. Prof Emeseh then took HR advice on how the matter should be progressed. What was progressed was a complaint from a student and not from the claimant's line manager and/or colleague.

330. Had the claimant made the protected disclosures relied upon, the tribunal is clear that the allegation of misconduct was pursued because of a genuine belief that a student was raising a matter of potentially serious misconduct against the claimant. The claimant himself accepts that any genuine allegation of this nature would have to be investigated. There would have been no basis for any conclusion that the treatment of the allegation was in any sense whatsoever because of the claimant having made the earlier disclosures.

Detriment 7.2.3 On or around 16 August 2023 Professor Emeseh and Michelle Marton invited the claimant to a meeting on 17 August, without giving him a reason for the meeting (s.13/26)

331. Prof Emeseh was guided by HR in the information the claimant was given prior to the meeting on 17 August. Initially, the claimant was simply told that there was an important matter Prof Emeseh wanted to discuss with him, the arrangement being that she would be accompanied by a representative of HR. The claimant requested more information and Ms Marton replied saying that she was unable to provide any details other than to say it was in relation to a student complaint. At the meeting, the claimant was told the name of the student and that the allegations were of inappropriate remarks of a sexual and racial nature.
332. The tribunal accepts that it was the respondent's normal practice for an employee to have a meeting with a line manager and HR representative to be told for the first time information about any complaint which required to be investigated. Employees then received written confirmation. Indeed, such practice is not uncommon. Giving individuals details from the outset creates a greater risk of an employee seeking not to engage with the process or raising more questions, questions which are easier to answer in person at a meeting rather than in protracted correspondence.
333. The claimant was given more information at the meeting and in correspondence which followed. There was no sense in which the respondent was seeking to avoid telling the claimant the nature of the allegations or preventing him from defending himself.
334. The claimant has shown no facts from which the tribunal could reasonably conclude that the approach taken by the respondent was in any sense whatsoever because of or related to race. The respondent was simply following its ordinary process, the same process as was adopted

when Prof Emeseh was called to a meeting to be told for the first time that the claimant had raised a grievance against her.

Detriment 5.1.4 In a Letter date 17 August 2023, the respondent suspended the Claimant. PID 4.1.1, 4.1.6 and 4.1.7 *[The Respondent's position is that the Claimant was not suspended, rather some of his duties were amended on 17 August 2023 by Kate Rogers]*

335. The claimant was allowed to continue to work and attend his workplace on the basis that he did not have contact with students during a period where teaching was not in any event taking place. This was a restriction on duties which could equally be termed a partial suspension. The respondent accepts that it amounted to a detriment.

336. Had the pleaded disclosures been found to be protected disclosures, the tribunal has no basis upon which it could reasonably conclude that the decision was in any sense whatsoever because of those disclosures. The respondent might, as many reasonable employers would have in the circumstances, have put in place a full suspension requiring the claimant to remain away from the campus and desist from performing any of his duties. The tribunal finds that the clear reason for his partial suspension was the serious nature of allegations made against him by a student relating to inappropriate conduct towards a student. It is clear that the respondent was concerned about the potential risk of the claimant remaining at work, hence the risk assessment completed by Miss Rogers on the basis of information provided by Prof Emeseh, who indeed was not lobbying for the claimant to be suspended. It is for the sole reason of the respondent's assessment of the risk to students and the institution itself that the claimant's duties were restricted.

PID 4.1.2 On 21 August 2023 the Claimant stated to Professor Emeseh that the culture of bullying had been allowed to worsen

337. The tribunal has been unable to make a finding that this was ever stated by the claimant at the meeting on 21 August 2023. It refers to its factual findings above.

338. Had those words been stated by the claimant, in circumstances where there is no evidence of any additional context at the meeting in which they were stated, there is no information conveyed which could be said to be conveyed by the claimant in his reasonable belief of a breach of any legal obligation. Again, the allegation lacks sufficient factual content and specificity. Insofar as the tribunal can infer any particular context, the claimant had recently been advised of the allegations made by the student against him. At what might otherwise have been a cause for some satisfaction, given that the meeting was to confirm the signing off of his period of probation and he had said that he had been working to improve and to achieve a perfect working relationship with Prof Emeseh, Prof Emeseh recalled that the claimant raised an issue about Dr Spicer releasing exam results indicating a source of concern. Again, the context is purely of the claimant having his own individual concerns with no

reasonable belief that he was saying anything in the public interest. The tribunal comes to this conclusion despite the reference by the claimant in the alleged statement to a “culture” of bullying which is suggestive of the claimant not being the only victim.

Detriment 5.1.5 On 29 August 2023 Dr Wilmot falsely claimed the student had made a written complaint. PID 4.1.1, 4.1.6 and 4.1.7

339. Whilst the claimant may genuinely have been unclear, there was no false claim by Dr Wilmot that student A had made a written complaint. The claimant asked for the written complaint and was told by Dr Wilmot that it would be provided in writing as part of her investigation report. She did not explicitly state that there was a written complaint.

340. Dr Wilmot was not focusing on the exact format of student A's complaint. She was aware that it had originated in verbal reports to Mrs Cressey, which Mrs Cressey had herself made a note of. She was aware that student A had never filled in and signed a student complaint form. Dr Wilmot believed that Mrs Cressey's report was genuine. Thereafter, she interviewed student A and concentrated on what she had been told by student A about the claimant's alleged behaviour.

341. The claimant's mindset is clearly somewhat different. He believes that, in the absence of the aforementioned type of student complaint completed by the student, there was no student complaint. The tribunal has raised with the claimant that there might nevertheless be a complaint from a student. Those nuances were certainly not in the mind of Dr Wilmot when she communicated with the claimant..

342. Further, in any event, the tribunal accepts that Dr Wilmot was unaware of the alleged protected disclosures (albeit not found to be such) relied on by the claimant which were statements said to have been made in October 2022 to Prof Emeseh about his work within the school of law, which Dr Wilmot was entirely unaware of and wholly disconnected in terms of her own duties and responsibilities. The tribunal has no evidence supportive of the claimant's contention that Prof Emeseh told those involved in the claimant's case about his protected disclosures. Indeed, the claimant has asserted that Prof Emeseh tried to hide from others her own suggested impropriety.

Detriment 7.2.6 Dr Wilmot in the investigation and Dr Cosson in the disciplinary, failed to provide the claimant with a copy of a written complaint from the student. (s.13/26)

343. The tribunal has already addressed Dr Wilmot's actions. No facts have been shown from which the tribunal could reasonably conclude that she failed to provide the claimant with a copy of a written complaint from the student in any sense whatsoever because of or related to race. Of course, there was no written complaint from the student (in the sense the claimant means) which could be copied and provided to him.

344. By the time of the disciplinary hearing chaired by Dr Cosson, the claimant had been provided with Dr Wilmot's investigation report which appended all correspondence and notes of conversations with student A. He knew that there was no written complaint as he defined one.

345. On those facts, the tribunal cannot engage further with the complaint of less favourable treatment because of race or unwanted conduct related to race. It would comment that the claimant has put to Dr Cosson and Dr Wilmot that they would not have treated a white employee facing similar allegations from a student in the same way. The only examples he has given of treatment of white employees, however, relate to Prof Emeseh – the comparisons with the treatment of Mrs Cressey, Dr Taylor and Dr Van Hoorebek. His complaints of race discrimination perpetrated by Dr Wilmot and Dr Cosson are pure assertions based on no facts whatsoever.

Detriment 5.1.8 and 7.2.5 From 29 August 2023 until 18 September 2023 Dr Wilmot conducted a one-sided investigation, using the student's friends as witnesses and deliberately disregarding witnesses who supported the Claimant and disregarding contradictions in the student's evidence. PID 4.1.1, 4.1.2, 4.1.6 and 4.1.7 and s.13/26.

346. The tribunal does not accept the claimant's assertion that Dr Wilmot conducted a one-sided investigation. Dr Wilmot was astute to come to no conclusions herself, but to present a full and balanced description of the evidence for a subsequent review to determine whether the matters should proceed to a disciplinary hearing. Dr Wilmot was a hugely impressive witness who clearly conducted her task carefully and forensically and produced a detailed and balanced report. It is clear that she identified evidence which supported the allegations, what the claimant's own case was and highlighted discrepancies in the student witness evidence. She raised the issue of the credibility of those student accounts as something to be considered. The claimant did not name any individual who he felt she should talk to or who could provide relevant evidence. She did not feel it was her task to interview students about such sensitive matters without the claimant requesting her to do so.

347. Whilst this claim must fail on the facts, the tribunal would again refer to the lack of any basis for concluding that Dr Wilmot's actions were tainted

by considerations of race. Had the disclosures relied upon been protected disclosures, they were disclosures of which Dr Wilmot had no knowledge.

Detriment 5.1.7 and 7.2.8 In or around 18 September 2023 Dr Wilmot contacted the student in order to change the dates of the allegations PID 4.1.1, 4.1.2, 4.1.6 and 4.1.7 and s.13/26

348. Dr Wilmot did contact student A on 18 September. She did not do so in order to change the dates of the allegations. She contacted student A because she believed that there were discrepancies in the dates given by student A in terms of when some of the alleged actions of the claimant could have taken place and when compared to the accounts of the other student witnesses. The reason for the contact was solely the apparent discrepancy as to dates and Dr Wilmot's desire, as a diligent investigating officer, to gain clarity. She did so, not to bolster the case against the claimant, but with an open mind as to where any further information from student A might lead her. It is entirely appropriate for an investigating officer to obtain further witness evidence in such circumstances and indeed Dr Wilmot would have been failing in her role had she not taken steps to get as much information from student A as she reasonably could.

349. Again, whilst this claim must fail on the facts, the tribunal would again refer to the lack of any basis for concluding that Dr Wilmot's actions were tainted by considerations of race. Had the disclosures relied upon been protected disclosures, they were disclosures of which Dr Wilmot had no knowledge. The tribunal is satisfied that the only reason Dr Wilmot contacted the student was to gain some clarity in circumstances where Dr Wilmot genuinely sought to understand if there was a discrepancy as to dates, what that discrepancy was and what might be the reason for it.

Detriment 5.1.11 On or around 18 September 2023 Dr Wilmot [suggested] that the matter should proceed as a formal disciplinary process. PID 4.1.1, 4.1. 2, 4.1.6 and 4.1.7

350. Dr Wilmot did not suggest that the matter should proceed as a formal disciplinary process. She understood that to be the decision of whoever reviewed her investigation report. She set out the evidence in respect of each of the alleged incidents she was considering and sought to evaluate that evidence. She was clear as to where there was no corroborating evidence for the incidents.

351. Again, any suggestion as was made was in no sense whatsoever related to race or protected disclosures for the reasons already set out.

7.2.4 Professor Emeseh remaining the reviewer of the investigation, despite the claimant expressing concern (s.13/26)

352. The tribunal has concluded that the review was undertaken by Professor Sivarajah and not Prof Emeseh. There is no evidence that Prof Sivarajah was influenced or pressured by Prof Emeseh. His decision that the matter should proceed to a potential gross misconduct disciplinary hearing was genuinely reached and purely on the basis of his consideration of the evidence presented to him in Dr Wilmot's report.

353. Indeed, his decision is unsurprising on the basis of the evidence presented. The claimant's effective assertion that the allegations ought to have been abandoned and it have been determined that he had no case to answer is wholly unrealistic.

354. No facts have been shown from which the tribunal could reasonably conclude that any decision made at this stage was to any extent whatsoever because of or related to race.

PID 4.1.3 On 04 and 06 October 2023 the Claimant emailed Professor Emeseh about the challenging working environment

355. There are no protected disclosures. The claimant does not convey information which in his reasonable belief tended to show a breach of a legal obligation. With little discernible context, the claimant refers to "preventable challenging working environment". It cannot be inferred that that the challenging working environment relates to any wrongdoing by the respondent. Again, there is insufficient factual content and specificity. The claimant prefaces the statement by referring to crises and issues he was having in the department unsuggestive of any wider concern beyond his own individual position.

PID 4.1.4 On 06 October 2023 the Claimant, in a telephone call with Professor Emeseh, mentioned the challenging working environment

356. The tribunal has quoted passages from the transcript of the audio recording of this call to which it has listened. The claimant in fact refers, rather than to a challenging working environment, to an "intimidating environment". He contends that he should not have been criticised over the remarking issue as reflected in his probation review. He alleges that Prof Emeseh has used probation "as an instrument of intimidation" saying that he is not the only person who thinks that.

357. Again, his reference to a challenging working environment is not the conveyance of information which in his reasonable belief tended to show a breach of a legal obligation. It is wholly unspecific. He does not allege that he has been bullied or harassed. Indeed, in a conversation he is covertly recording, he does not say anything in the extracts disclosed suggestive of him having previously made allegations in the past of the type he now asserts. He asserts that the remarking of exams was wrong, but not that there was a breach of academic integrity or any legal standard of which he had already made Prof Emeseh aware.

358. There is in the conversation no protected disclosure.

Detriments 5.1.6 and 7.2.7 HR caused a delay from 18 September 2023 to 6 November 2023 in reviewing the outcome of the investigation and informing the claimant that the outcome was that the allegations would proceed to a disciplinary hearing. Particularly, the respondent had done nothing with the investigation for 6 weeks and only quickly reviewed and progressed it over the weekend when the claimant complained. PID 4.1.1, 4.1.6 and 4.1.7 and (s.13/26)

359. It did take a period of 6 weeks from Dr Wilmot's production of her investigation report to the claimant being informed that the report had been reviewed and that the allegations would proceed to a disciplinary hearing. That can be categorised as a delay and therefore detrimental treatment of the claimant.

360. Dr Wilmot herself was not involved in any delay. She had no involvement in the report after its release. It was the view of HR that the report should be sent to Prof Emeseh given that she was the commissioning manager and the claimant's line manager. Whilst such individual would not necessarily be the reviewer of a disciplinary investigation, they not uncommonly would be. Prof Emeseh read the report. It contained criticisms made by the claimant of her and her own involvement in the allegations. She decided to recuse herself. In the background, the claimant had been lobbying for the appointment of an alternative reviewer and HR had been reacting to that seeking a fuller understanding of the grounds upon which the claimant said that was appropriate. HR was not being obtuse in this regard. Once Prof Emeseh recused herself, HR had to identify another academic to act as reviewer, which they did. Before conducting the review, there was, however, a need to meet with Prof Sivarajah to explain why he was being asked to become involved. The investigation report was only then passed to him in late October for his review. He then conducted his review in a timely manner given the volume of material which the tribunal is satisfied that he properly considered.

361. This provides a full explanation which the tribunal accepts for the length of time it took for the investigation report to be reviewed. None of those involved were aware of the alleged protected disclosures relied upon. In any event, the tribunal has made a positive finding as to the reason for the time taken unrelated to any such disclosures.

362. As regards the delay being because of or related to race, the claimant has shown no facts from which the tribunal could reasonably conclude any delay to have been influenced by considerations of race. Again, the tribunal has made a finding of the reason for the time taken which is unrelated to race.

Detriment 7.2.9 On or around 6 November 2023, Prof Emeseh unreasonably and on an unfounded basis instructed the claimant to remove himself from the DTAP of Mr Kang (comparator Mark Van Hoorebeek) (s.13/27)

363. There was no pleaded detriment. Prof Emeseh did not instruct the claimant to remove himself from the DTAP. Before speaking to the student about that student's potential issue with the claimant as communicated to her by Dr Van Hoorebeek, Prof Emeseh simply enquired of the claimant what his own position was. Would he be happy with having no further involvement in the student's DTAP?

364. It is suggested that had the student complained to the claimant about Dr Van Hoorebeek, a white academic, Prof Emeseh would not have asked the same question of Mr Van Hoorebeek. The tribunal accepts that Prof Emeseh asked the question of the claimant as she wanted to understand his position before she spoke to the student. There is no basis upon which the tribunal could conclude that she would have acted any differently had there been a potential concern about Dr Van Hoorebeek's involvement in the DTAP.

365. No facts have been shown from which the tribunal could reasonably conclude that Prof Emeseh's approach was to any extent whatsoever influenced by or related to race. The tribunal has accepted her explanation untainted by considerations of race.

PID 4.1.5 On 07 November 2023 the Claimant emailed 5 members of staff, including Emma Se Se, David Mowbray and Dr Wilmot about a bullying and harassment culture

366. This was not a protected disclosure. The email conveys no information but rather states that information may be provided in the future, probably in a forthcoming grievance, about a bullying and harassment culture. There is within it a suggestion of something more than relating to the claimant as a lone individual, given the reference to many people leaving the school of law, but there remains no disclosure of information which in the claimant's reasonable belief tends to show the breach of a legal obligation. There is insufficient factual content and specificity to be so capable.

PID 4.1.8 On 21 December 2023, in his formal grievance, the Claimant restated that remarking the students' coursework reflected badly on the academic integrity of the exams and contained the disclosure about bullying and harassment culture

367. The grievance which was ultimately submitted does list a number of alleged events and occurrences which the claimant maintains supports an allegation of harassment and bullying, including of BME staff. It refers to unequal treatment. The respondent accepts that the claimant here is raising a subjective belief in a breach of a legal obligation. The tribunal on balance concludes that the claimant has satisfied the test of possessing a

reasonable belief, which obviously does not have to be accurate, of behaviour in breach of a legal obligation. The overall context of the allegation, regarding the respondent's "culture" and the claimant having previously referred to others leaving the school of law, is sufficient for the tribunal to also conclude that the claimant had the necessary public interest belief.

368. There is no separate protected disclosure, the tribunal finds, as regards the remarking reflecting badly on the academic integrity of the exams. The tribunal agrees that within the grievance there is a rather buried reference to the remarking not being a good precedent "because it touches on the integrity of exams". That is unspecific and not indicative of information reasonably believed to be tending to show a breach of a legal obligation. Again, the reference the claimant makes to the Higher Education and Research Act 2017 in his evidence is unhelpful and, if that was indeed ever in the claimant's mind, then it was not a reasonable belief that this imposed a legal obligation on the respondent. The claimant is not asserting that the respondent was acting unlawfully by remarking the employment law module, the tribunal does not accept that the claimant had that in his mind and, if he had, it was not a reasonable belief.

Detriment 5.1.9 Dr Martin paid lip service to the claimant's grievance and did not give the Claimant a fair grievance hearing in that they

v. Did not give the claimant the minutes of the grievance meeting to check before making the decision

vi. Ignored, didn't take into account or misinterpreted the claimant's evidence (as set out in the examples in paragraphs 4 – 9(ii) of the claimant's draft particulars of amendment sent on 11 October 2024)

NB – the numbering is incorrect in the document, and the claimant made an application to add this allegation on 11 October 2024.

369. The allegation against Mr Martin fails on the basis of the tribunal's factual findings. Certainly, the characterisation of Dr Martin's efforts as paying no more than lip service to the claimant's grievance is wholly inaccurate. The claimant might point to some points of detail in his grievance which are not addressed in the written outcome, but that ignores the volume of information provided by the claimant and the detail with which it was considered. It is unsupportive of Dr Martin having simply ignored or misunderstood the nature of the claimant's concerns. The claimant does not criticise the efforts of Mrs Clyde-Evans in investigating his grievance and the report she produced. Dr Martin's conclusions were reliant on that report. Her consideration of the evidence was not that an allegation of bullying and harassment within the school of law was made out.

370. The claimant is effectively alleging that Dr Martin failed to make findings of bullying and harassment because his grievance, as a protected disclosure, was about bullying and harassment

371. There are no facts from which the tribunal could reasonably conclude that Dr Martin was so influenced. The tribunal notes that Dr Martin did not understand that he was faced with a whistleblowing disclosure which is not at all surprising. More importantly, there was nothing within the grievance which caused him discomfort or drove him to find against the claimant whether to protect Prof Emeseh or the school of law or the respondent more generally.

372. Dr Martin had no role or involvement in the sending out of the notes of the grievance hearing. There is no mandatory requirement within the respondent for the notes of the grievance hearing itself to be approved before the provision of an outcome. As Prof Priest appreciated, an outcome could be provided at the hearing itself. There is no basis upon which the tribunal could reasonably conclude that the later release of the notes was deliberately to cause the claimant any sort of disadvantage. There was no material or obvious disadvantage. There is no basis upon which the tribunal could reasonably conclude that any decision was materially influenced by the grievance containing allegations of harassment or indeed commenting in passing on academic integrity.

Detriment 7.2.10 Dr Cosson failed to provide the claimant with a fair disciplinary hearing; they were biased and had already decided to dismiss the claimant.

373. Whilst the tribunal will deal more fully with the issue of whether there was a fair disciplinary hearing in its findings in the complaint of unfair dismissal, the tribunal does not find that there was a biased or predetermined outcome because of or related to race.

374. The claimant asserts that a white academic faced with similar allegations would have been treated differently but there are no facts shown at all from which the tribunal could draw that inference. In no sense whatsoever was the disciplinary process or outcome because of or related to race.

Detriment 5.1.10 Dr Cosson considered allegation 1D in the disciplinary, despite the investigation not recommending this allegation proceed to the disciplinary PID - all

375. Allegation 1d was considered but in circumstances where it was progressed for consideration at the disciplinary hearing chaired by Dr Cosson. Dr Wilmot recognised that there was no evidence corroborating this allegation. That is different from a conclusion that there was no evidence supporting it. There was obviously the account of student A. Prof Sivarajah believed that the alleged incident ought to be considered together with the other 4 incidents. He considered that if some of the allegations were upheld, that in itself might provide corroboration for others having also occurred. Indeed, that is the conclusion reached by the Cosson panel. They considered that allegation certainly because they understood it to be an allegation passed to it to consider and in no sense whatsoever because of any protected disclosures.

Detriment 5.1.12 and 7.2.11 On 25 April 2024 the Respondent dismissed the Claimant [*The Respondent will say that dismissal itself is not capable of being a detriment under S47B(2)ERA*] and s.13/26.

376. A complaint against the respondent as employer in respect of the claimant's dismissal cannot be pursued as one of unlawful whistleblowing detriment, but can and does fall to be considered under the separate complaint of automatic unfair dismissal. There are no facts shown from which the tribunal could reasonably conclude that the Cosson panel decision was influenced to any extent whatsoever by considerations of race. The panel's decision in the claimant's guilt was genuine and based on its assessment of the evidence. The sanction was what they would have believed appropriate in the case of any academic in similar circumstances.
377. All of the claimant's complaints of whistleblowing detriment, direct race discrimination and race-related harassment therefore fail. That is without any consideration of applicable time limits, but in circumstances where there was a clear separation in terms of any continuing course of conduct between the report of student A's complaint by Mrs Cressey on 13 June 2023 and all earlier alleged acts of detriment.
378. The tribunal turns then to the complaint of automatic unfair dismissal because of whistleblowing. The principal reason for dismissal was not the protected disclosure contained within the claimant's grievance. Nor was the decision influenced to any extent whatsoever indeed by the earlier alleged reported protected disclosures. The principal and indeed sole reason for dismissal was the respondent's belief that the claimant had behaved inappropriately towards student A.
379. The complaints, their investigation, the recommendation that they proceed to a disciplinary hearing and the consideration given to them at that hearing (and on appeal) was not a sham exercise. It was a genuine and detailed attempt to evaluate complaints emanating from a student, complaints which the claimant himself accepts, if genuinely made, would have to be progressed and considered by the respondent. Certainly, the Cosson panel was concerned simply with determining what they believed had occurred and the appropriate sanction.
380. Turning to the complaint of ordinary unfair dismissal, did the Cosson panel come to a conclusion in the claimant's guilt on reasonable grounds and after a reasonable investigation?
381. The tribunal concludes that they did. The investigation conducted by Dr Wilmot was thorough and balanced as described. She sought to highlight evidence in support of the allegations, but also evidence which was problematical and raised questions as to whether the incidents can have occurred as described by the student witnesses. She spoke to all relevant witnesses. She did not refuse to speak to any witnesses highlighted by the claimant who might give an alternative account.

382. It was not unreasonable for the respondent not to have been immediately distrustful of the role of Mrs Cressey or Prof Emeseh in the way these allegations came to light. There was not reasonably a need for further preliminary enquiries before the appointment of Dr Wilmot as investigating officer. Dr Wilmot reasonably concentrated on the first hand evidence she received from student A. She did not act unreasonably in seeking clarification from student A as to dates – including after the interviews had otherwise been completed.

383. The Cosson panel did then consider the witness evidence of 2 additional students provided by the claimant, albeit recognising reasonably that the evidence was essentially of not having seen anything in circumstances where the incidents might still have occurred.

384. The disciplinary panel did consider and weigh up the claimant's representations regarding the student witnesses' discrepancies as to dates and the fact that some of the incidents could not have occurred on the dates provided by student A when first interviewed by Dr Wilmot. They reasonably considered the unclear and varying timeframes not to fatally undermine the student witnesses' assertions that the incidents had occurred as described. They reasonably concluded that the attendance evidence was unreliable, but that there was evidence that the incidents could have still occurred. They appreciated that the claimant was saying that his own attendance sheet showed one student only present at the 28 April 2023 lecture. That was a sheet for completion where a student had not brought their swipe in card. Others had swiped on the relevant day, but the electronic attendance systems were unreliable within the respondent and were not always properly used by students. There was a discrepancy in evidence as to the make up by sex as well as number of the class after which the claimant was alleged to have made the hug comment – or at least the most likely date of occurrence. The panel reasonably concentrated on the evidence of what had been said coming from the student witnesses which was reasonably viewed as sufficiently specific and similar to be preferred to the claimant's straight denial of anything having occurred, in circumstances where no motivation was found for the students to have lied. The "fair skin" comment was equally reasonably viewed as corroborated and a convincing account of something which had occurred despite uncertainty as to dates. Student A's account was not viewed as fatally undermined by differences in accounts. Again, that conclusion was reasonably reached. Student A's account was reasonably preferred again in allegations for which there were no third party witnesses. Again, it was reasonable to conclude that her accounts were not invented and that mistakes as to dates were explicable and did not fatally undermine an account where there was no discernible motive for those accounts to be invented. The way in which the allegations had surfaced was regarded reasonably as credible with an element of corroboration from the record of the claimant's contact with her mental health adviser. The panel understood that the claimant considered that he was being framed, but reasonably considered that there was no evidence from which they could conclude that the allegations were a fabrication or distortion. All 5 incidents in respect of which the claimant was alleged to have behaved inappropriately were upheld on reasonable grounds.

385. The respondent followed a fair procedure with no identified breach of the ACAS Code on Disciplinary Procedures. There was no requirement for the disciplinary process to be stayed pending a separate resolution of the claimant's grievances. It was reasonably considered that matters relating to the conduct of the disciplinary investigation ought to be considered by the Cosson panel. The claimant was aware of that and, whilst Dr Cosson did not consider the grievance itself, the claimant's assertions regarding unfairness and indeed malice in the way the allegations were raised and pursued were considered. The claimant did not have a right to appeal at each stage of the disciplinary process, but rather only after the final outcome, which of course he exercised.
386. Mrs Cressey acted reasonably on first contact with student A in respect of the allegations. It was not unreasonable not to inform the claimant until after it was clear that the student wished to pursue allegations. A failure to divert the matter to a separate process involving the consideration of a distinct student complaint or safeguarding concern was not unreasonable. Nor, again, was the lack of interrogation of Mrs Cressey and Prof Emeseh's reporting of the allegations.
387. The claimant was aware of the essence of the complaint at the time he attended the first meeting at which he was put on restricted duties. It was to his benefit that the respondent decided against a full suspension. Updated terms of reference were soon thereafter provided to him and before his own investigation interview.
388. The claimant was accompanied to by 2 individuals, one external to the respondent, at the investigation meeting which he recognised as being a fair meeting where he had an opportunity to fully state his case. As already referred to, the investigation report was balanced and fair and independently reviewed after a short delay which caused no prejudice to the claimant.
389. The claimant was aware of all of the evidence being considered against him prior to the disciplinary hearing which was a full hearing reconvened when there was insufficient time to conclude it on the first day. The claimant was at no stage faced with a different set of allegations. The same incidents were under consideration throughout, albeit with some uncertainty as to the date on which they may have taken place. The claimant was able to again fully state his case with the benefit of representation at the disciplinary hearing.
390. The claimant received a reasoned outcome and was given the right to appeal. He exercised that right but chose not to attend. The appeal represented a thorough consideration of the grounds of appeal raised by the claimant.
391. Was then dismissal within the band of reasonable responses open to a reasonable employer in the circumstances. The claimant and Dr Nalule themselves recognised that an adverse finding against the claimant in the incidents under consideration would amount to a finding of gross

misconduct. That is without any technical analysis of whether the claimant was guilty of any form of sexual or racial harassment. The conduct he was accused of was of unarguably inappropriate conduct with obvious sexual and racial elements. The allegations were indeed of serious misconduct which if upheld were likely to lead to dismissal. The claimant was in a position of trust with a significant power imbalance between himself and the respondent's students. The respondent's conclusion that the claimant had been guilty of the behaviour alleged was reasonably considered to amount to a fundamental loss of confidence in him. The decision to dismiss was within the band of responses open to a reasonable employer in all of the circumstances. The claimant was fairly dismissed.

392. The tribunal is finally left with having to consider the claimant's separate breach of contract claim which requires the tribunal to come to its own conclusion on the balance of probabilities as to whether or not the alleged incidents occurred. The tribunal is mindful that it has not heard directly from the student witnesses. It does, however, have the statements of those students given to Dr Wilmot during her investigation and considers them to be genuine accounts.

393. The tribunal has rejected the assertion of a conspiracy or grooming of the students. The tribunal does not consider that the students had any motivation to invent accounts, not least in circumstances where they had finished their course of studies with the respondent.

394. The accounts of the students read as convincing recollections and attempts to recollect what had occurred. The discrepancies in them are understandable and not unusual when individuals are making genuine attempts to recollect things that happened sometime in the past. They are certainly not in their appearance carefully crafted or engineered accounts and the student witnesses made no attempt to corroborate each and every alleged incident.

395. There are then, as Dr Wilmot recognised, 2 incidents with corroboration from student witnesses. The other accounts require a resolution in terms of a dispute of evidence as between the claimant and student A.

396. The tribunal has resolved all evidential disputes in favour of the incidents having occurred. The respondent has shown on the balance of probabilities that the incidents, more likely than not, did occur.

397. The tribunal reaches that conclusion with due regard to the dates and the evidence of attendance at the claimant's classes.

398. The allegation that the claimant had commented about student A's fair skin not being an excuse for not answering a question represents a specific and detailed account. It suggested a difference in treatment because of colour. It was corroborated by student witness 1, but not student witness 2. That is not indicative of an orchestrated attempt to bolster student A's allegation. Differences in what was reported to have been said were not material. Whether the comment was made in open class

or directly or privately to student A is a matter capable of interpretation. Student A's recollection indicated the claimant moving around the class and coming round to her when making the reference to her skin tone. It appears from Mr Boateng's evidence that student A was distinguished in the class as having light skin tone. It is quite possible that students who were present did not all hear the comment. The evidence of the 2 students called by the claimant did not render it impossible or unlikely that the comment had been made. The date of October 2022 cannot have been correct given that the claimant did not start teaching the employment law module until the beginning of February 2023. As Dr Wilmot concluded, this could be a confusion relating to descriptions of the first or second semester or an imperfect recollection by student A. As relevant to all the allegations, the tribunal accepts the way they were said to have been raised with Mrs Cressey to be genuine with corroboration from the student's mental health advisor of her being informed in March and April 2023 that the student was experiencing unwanted attention from a lecturer who had made comments on her appearance such that she now left his class accompanied by a friend. The claimant makes a flat denial of making the comment with no explanation as to anything he did say having been potentially misunderstood.

399. The allegation that the claimant asked student A if she would hug him if they were in a dark alley was again a specific account corroborated to a significant material extent by both student witnesses 1 and 2. One account referred to the claimant recognising that student A was happy to give her friend a hug referring to that friend by a name. A student who went by the relevant name was a member of this class. The claimant refers to him always leaving this class early to get to another lecture such that the alleged act could not have occurred after the end of the class. It is clear, that classes could end at various times and the claimant and the students must have left each class at some point. There is no evidence that the comment could not possibly have been made.

400. There is a lack of clarity as to the date of the occurrence of this alleged comment. The most likely date, on the evidence, was 28 April 2023 which was not the final class but the final one conducted in person and one therefore which might understandably have been regarded by students as the final class. The claimant refers to attendance records showing that there were not 2 male and 3 female students present at the class as was described. His own attendance record showed only one student at the lecture, but on a sheet which was for the purpose of recording attendance by students who had forgotten their swipe cards. The tribunal accepts the inaccuracy of attendance records due to system errors and individual lack of compliance by students. The swiping records did indicate that student A and student witnesses 1 and 2 had attended this class at least at some point of time. On balance, it can be accepted that the comment was made at some point and likely on 28 April 2023.

401. The inadequacy of student A and the student witnesses' recollections as to the dates incidents occurred is a point of strength in the claimant's case against the incidents having occurred, but it is outweighed by the accounts given by the students. Whilst it might have been expected

that accounts would have been more precise as to timing, particularly that of student A, the evidence is convincing of something having been said regardless of the exact date of occurrence. An ability to be certain as to dates, does not lead to a conclusion that nothing occurred at any point in time.

402. These incidents are supportive of a conclusion of a wider pattern of behaviour by the claimant. Student A's uncorroborated allegations are also accepted on the balance of probabilities. The comment about "skin to skin contact" could possibly have occurred in January 2022. The claimant clearly was present on campus for some of that month and student A recollected that the claimant did not yet have a name on his office door which would indicate an incident earlier in 2022. Again, the account is specific with no motive discernible for its fabrication and with no suggestion as to any form of misunderstanding. Even if the alleged comment might have been made later in 2022, the tribunal can still conclude on the balance of probabilities that it occurred at some point. Student A was saying that the incident occurred at a point when the claimant was not yet one of her lecturers. The tribunal similarly considers on balance that the claimant referred to people from Jamaica dancing "like they are making love" and separately referred to the claimant as "very Africanised and pretty" before placing and holding his hand under her chin. Again, whilst this latter incident cannot have occurred on the evidence in October 2022 before the employment law module started, it could well have occurred on an occasion from early February 2023. Student witness 1 referred to student A opening up to her (without reference to any specifics) about the claimant's behaviour in March/April 2023 which coincides with the disclosures made by student A to her mental health advisor.

403. The claimant has presented a defence concentrating on matters of a largely technical nature asserting often, that for (often quite weak) procedural reasons, the allegations ought not to have proceeded to have been considered at all. The tribunal is fully aware that the claimant completely denies that the incidents occurred, but the claimant has at all stages shown a reluctance to engage with the substance of the allegations.

404. If the alleged incidents did not occur, then the tribunal is truly sorry for the claimant and the situation he finds himself in. However, the dispute of evidence is quite stark forcing the tribunal to consider at times if one account can be preferred to another diametrically opposed to it. The claimant does not seek to explain what might have been said or done by him which might have resulted in, for instance, a misinterpretation or misunderstanding on the part of student A. There is no room for interpretation or nuance. Against that the tribunal cannot conclude that the allegations have emerged from no factual basis or context.

405. In those circumstances the tribunal must on the balance of probabilities conclude that the incidents did occur. Such behaviour as found, in the context of a senior academic/student relationship, amounts to gross misconduct. The respondent was entitled to terminate the claimant's employment without notice and his breach of contract claim therefore fails.

ANNEX

1 The Claimant's claims

1.1 The Claimant brings complaints of:

1.1.1 unfair dismissal (Employment Rights Act 1996 ("ERA")): section 98;

1.1.2 automatic unfair dismissal for having made a protected disclosure (ERA: section 103A);

1.1.3 detriment for having made a protected disclosure (ERA: section 47B);

1.1.4 direct race discrimination (Equality Act 2010 ("EqA"): sections 13 and 39); and

1.1.5 harassment related to race (EqA: section 26).

2 Jurisdiction – detriment claim

2.1 Were the detriment and deductions complaints made within the time limit in section 111 ERA? The Tribunal will decide:

2.1.1 Was the claim made to the Tribunal within three months (plus early conciliation extension) of the date of detriment/deduction?

2.1.2 If not, was it reasonably practicable for the claim to be made to the Tribunal within the time limit?

2.1.3 If it was not reasonably practicable for the claim to be made to the Tribunal within the time limit, was it made within a reasonable period?

3 Jurisdiction – EqA claims

3.1 Were the Claimant's discrimination complaints presented within the time limits set out in section 123 EqA? The Tribunal will decide:

3.1.1 Was the claim made to the Tribunal within three months (plus early conciliation extension) of the acts complained of? The claim was brought on 31 January 2024. ACAS day A was 16 January 2024, and day B was 30 January 2024. Primary Limitation was 17 October 2023.

3.1.2 In relation to any complaints which are out of time, do they form part of a

continuing act extending over a period of time?

3.1.3 If so, was the claim made to the Tribunal within three months (plus early conciliation extension) of the end of that period?

3.1.4 If not, were the claims made within a further period that the Tribunal thinks is

just and equitable? The Tribunal will decide:

- i. Why the complaints were not made to the Tribunal in time;
- ii. In any event, whether it would be just and equitable in all the circumstances to extend time.

4 Protected disclosure (ERA: sections 43B to 43H)

4.1 Did the Claimant make one or more qualifying disclosures as defined in section 43B ERA? The Claimant relies upon the following:

4.1.1 On 14 October 2022 the Claimant stated “this is like indirect bullying and harassment” which the Claimant noticed as a culture affecting many staff, orally, to Professor Emeseh

4.1.2 On 21 August 2023 the Claimant stated to Professor Emeseh that the culture of bullying had been allowed to worsen

4.1.3 On 04 and 06 October 2023 the Claimant emailed Professor Emeseh about the challenging working environment

4.1.4 On 06 October 2023 the Claimant, in a telephone call with Professor Emeseh, mentioned the challenging working environment

4.1.5 On 07 November 2023 the Claimant emailed 5 members of staff, including Emma Se Se, David Mowbray and Dr Wilmot about a bullying and harassment culture

4.1.6 On or around 07 October 2022 the Claimant asked Professor Emeseh to refer to his email that the remarking led to students who failed to be passed and even awarded higher grades, which were not merited

4.1.7 On 10 October 2022 the Claimant informed Professor Emeseh verbally [previously- in an email] that remarking the students reflected badly on the academic integrity of the exams

4.1.8 On 21 December 2023, in his formal grievance, the Claimant restated that remarking the students’ coursework reflected badly on the academic integrity of the exams and contained the disclosure about bullying and harassment

4.2 Was any such qualifying disclosure protected? The Tribunal will decide:

4.2.1 Was information disclosed?

4.2.2 Did the Claimant believe the disclosure of information was made in the public interest?

4.2.3 Was that belief reasonable?

4.2.4 Did the Claimant believe that the disclosure tended to show the following by reference to sections 43B(1)(b) of the ERA?

iii. In respect of 4.1.1 – 4.1.5 a breach of a legal duty not to bully and or harass staff pursuant to the EQA

iv. In respect of 4.1.6 – 4.1.8 a breach of a legal duty to ensure that academic integrity is maintained pursuant to the Higher Education and Research Act 2017, paragraph 2(8)(a) and (b)(i)-(iii), the Academic Integrity Charter for UK Higher Education, and the Higher Education Cheating Services Prohibition Bill.

4.2.5 Was that belief reasonable?

5 Protected disclosure detriment (ERA: section 48)]

5.1 Did the Respondent do the following things:

5.1.1 Professor Emeseh extended the Claimant's probation from October 2022 to August 2023. PD 4.1.1

5.1.2 On or around 10 October 2022 [not 2023] Professor Emeseh informed the Claimant she would not have asked him to apply for the advertised Professor position. PD 4.1.6 and 4.1.7

5.1.3 On or around 13 June 2023, Julia Cressey, with the knowledge and or support of Professor Emeseh, made an allegation of misconduct against the Claimant. PD 4.1.1, 4.1.6 and 4.1.7

5.1.4 In a Letter date 17 August 2023, the respondent suspended the Claimant. PD 4.1.1, 4.1.6 and 4.1.7 [The Respondent's position is that the Claimant was not suspended, rather some of his duties were amended on 17 August 2023 by Kate Rogers]

5.1.5 On 29 August 2023 Dr Wilmot falsely claimed the student had made a written complaint. PD 4.1.1, 4.1.6 and 4.1.7

5.1.6 HR caused a delay from 18 September 2023 to 6 November 2023 in reviewing the outcome of the investigation and informing the claimant that the outcome was that the allegations would proceed to a disciplinary hearing. Particularly, the respondent had done nothing with the investigation for 6 weeks and only quickly reviewed and progressed it over the weekend when the claimant complained. . PD 4.1.1, 4.1.6 and 4.1.7

5.1.7 In or around 18 September 2023 Dr Wilmot privately contacted Student A in order to change the dates of the allegations. PD 4.1.1, 4.1.2, 4.1.6 and 4.1.7

5.1.8 From 29 August 2023 until 18 September 2023 Dr Wilmot conducted a one-sided investigation, using the student's friends as witnesses and deliberately disregarding witnesses who supported the Claimant and disregarding contradictions in the student's evidence. PD 4.1.1, 4.1.2, 4.1.6 and 4.1.7

5.1.9 Dr Martin paid lip service to the claimant's grievance and did not give the Claimant a fair grievance hearing in that they

v. Did not give the claimant the minutes of the grievance meeting to check before making the decision

vi. Ignored, didn't take into account or misinterpreted the claimant's evidence (as set

out in the examples in paragraphs 4 – 9(ii) of the claimant's draft particulars of amendment sent on 11 October 2024)

NB – the numbering is incorrect in the document, and the claimant made an application to add this allegation on 11 October 2024.

5.1.10 Dr Cosson considered allegation 1D in the disciplinary, despite the investigation

not recommending this allegation proceed to the disciplinary PD - all

5.1.11 On or around 18 September 2023 Dr Wilmot suggested [previously – concluding] that the matter should proceed as a formal disciplinary process. PD 4.1.1, 4.1. 2, 4.1.6 and 4.1.7

5.1.12 On 25 April 2024 the Respondent dismissed the Claimant [The Respondent will

say that dismissal itself is not capable of being a detriment under S47B(2)ERA]

5.1.13 On or around 14 October 2022 Professor Emeseh refused the Claimant's request

to be removed from the Contract Law teaching group

5.2 By doing so, was the Claimant subjected to a detriment?

5.3 If so, was it done on the ground that they had made a protected disclosure?

6 Unfair dismissal (ERA: section 98)

6.1 What was the reason (or, if more than one, the principal reason) for the Claimant's dismissal?

6.1.1 The Respondent says the reason for dismissal was conduct.

6.1.2 The Claimant says that it was because the Claimant had made protected disclosures.

6.2 Is the reason or principal reason for dismissal one of the reasons listed in section 98(2) ERA, or some other substantial reason of a kind such as to justify the Claimant's dismissal?

6.3 If the reason or principal reason for dismissal was that the Claimant had made a protected disclosure, the dismissal is automatically unfair under section 103A ERA.

6.4 If the reason was conduct, did the Respondent act reasonably or unreasonably in the circumstances (including the size and administrative resources of the Respondent) in treating that as a sufficient reason to dismiss the Claimant? The Tribunal will usually decide:

6.4.1 Did the Respondent genuinely believe the Claimant had committed the misconduct alleged?

6.4.2 Were there reasonable grounds for that belief?

6.4.3 At the time the belief was formed, had the Respondent carried out a reasonable investigation?

6.4.4 Did the Respondent follow a reasonably fair procedure?

6.4.5 Was dismissal within the range of reasonable responses?

7 Direct race discrimination (EqA: section 13)]

7.1 The Claimant describes their race as Black African.

7.2 Did the Respondent do the alleged acts the Claimant complains of? The Respondent understands the Claimant's case as, the Claimant says they were subjected to the following treatment:

7.2.1 On or around 14 October 2022 Professor Emeseh did not criticise Julia Cressey

for her email criticising the claimant, but did criticise the claimant and called to rebuke the claimant in front of Julia Cressey for the email he sent criticising her, and told the claimant that he needed to produce evidence that a student had complained about Julie Cressey. (Comparator Julia Cressey)

7.2.2 On or around 15 October 2022 Professor Emeseh failed to hold Chris Taylor to

account for his inappropriate emails to the claimant (comparator Chris Taylor)

7.2.3 On or around 16 August 2023 Professor Emeseh and Michelle Marton invited the Claimant to a meeting on 17 August, without giving him a reason for the meeting

7.2.4 Professor Emeseh remaining the reviewer of the investigation, despite the Claimant expressing concern

7.2.5 From 29 August 2023 until 27 November 2023 Dr Wilmot conducted a one-sided investigation, using the student's friends as witnesses and deliberately disregarding witnesses who supported the Claimant and disregarding contradictions in the student's evidence

7.2.6 Dr Wilmot in the investigation, and Dr Cosson in the disciplinary, failed to provide the Claimant with a copy of a written complaint from the student.

7.2.7 HR caused a delay from 18 September 2023 to 6 November 2023 in reviewing the outcome of the investigation and informing the claimant that the outcome was that the allegations would proceed to a disciplinary hearing. Particularly, the respondent had done nothing with the investigation for 6 weeks and only quickly reviewed and progressed it over the weekend when the claimant complained.

7.2.8 In or around 18 September 2023 Dr Wilmot contacted the student in order to change the dates of the allegations

7.2.9 On or around 6 November 2023, Professor Emeseh unreasonably and on an unfounded basis instructed the claimant to remove himself from the DTAP of Mr Kang (comparator Mark Van Hoorebeek)

7.2.10 Dr Cosson and failed to provide the Claimant with a fair disciplinary hearing; they were biased and had already decided to dismiss the Claimant.

7.2.11 On 25 April 2024 the Respondent dismissed the Claimant.

7.3 If so, was that less favourable treatment?

7.3.1 The Tribunal will decide whether the Claimant was treated less favourably than the Respondent treats or would treat an actual or hypothetical comparator (there being no material difference between the relevant circumstances of the comparator).

7.3.2 For the purposes of determining this issue, the comparators will be Julia Cressey, Chris Taylor, and Mark Van Hoorebeek as identified above. In the other cases the Claimant will rely on a hypothetical comparator

7.4 If so, has the Claimant show facts from which the Tribunal could conclude, without further explanation, that the treatment was because of the Claimant's race?

7.5 If so, can the Respondent show the treatment was in no way related to the Claimant's race?

8 Harassment (EqA: section 26) (in the alternative to direct discrimination)

8.1 The Claimant alleges that they were subjected to harassment related to the protected characteristic of race. The Claimant relies on the alleged conduct at 7.2.1 – 7.2.11 above.

8.2 Did the conduct set out at paragraph 7.2 occur?

8.3 If so, did that conduct amount to unwanted conduct that had the purpose or effect of:

8.3.1 violating the Claimant's dignity? Or

8.3.2 creating an intimidating, hostile, degrading, humiliating or offensive environment for the Claimant?

8.4 If so, was such conduct related to the protected characteristic of race?

8.5 In deciding whether the conduct had the relevant purpose or effect, account should be taken of:

8.5.1 the Claimant's perception;

8.5.2 the other circumstances of the case;

8.5.3 whether or not it was reasonable for the conduct to have that effect.

9 Remedy for unfair dismissal

9.1 Does the Claimant wish to be reinstated to their previous employment?

9.2 Does the Claimant wish to be re-engaged to comparable employment or other suitable employment?

9.3 Should the Tribunal order reinstatement? The Tribunal will consider, in particular, whether reinstatement is practicable and, if the Claimant caused or contributed to dismissal, whether it would be just.

9.4 Should the Tribunal order re-engagement? The Tribunal will consider, in particular, whether re-engagement is practicable and, if the Claimant caused or contributed to dismissal, whether it would be just.

9.5 What should the terms of the re-engagement order be?

9.6 What Basic Award is payable to the Claimant, if any?

9.7 Would it be just and equitable to reduce the Basic Award because of any conduct of the Claimant before the dismissal? If so, to what extent?

9.8 If there is a Compensatory Award, how much should it be? The Tribunal will decide:

9.8.1 What financial losses (both past and future) has the dismissal caused the Claimant?

9.8.2 Has the Claimant taken reasonable steps to mitigate loss and reduce their lost earnings (for example, by looking for another job)? If not, for what period of loss should the Claimant be compensated?

9.8.3 Is there a chance that the Claimant would have been fairly dismissed in any event had a fair procedure had been followed, or for some other reason? If so, should the Claimant's compensation be reduced? By how much?

9.8.4 Did the Claimant to any extent cause or contribute to their dismissal by their own actions and, if so, would it be just and equitable to reduce the Claimant's compensation? By what proportion?

9.8.5 Did the ACAS Code of Practice on Discipline and Grievance Procedures apply?

Did the Respondent or the Claimant unreasonably fail to comply with it? If so, is it just and equitable to increase or decrease any award payable to the Claimant?

9.8.6 Should any sums be deducted to reflect payments already received by the Claimant (e.g. a redundancy or ex gratia payment)?

9.8.7 Does the Compensatory Award need to be grossed up to take into account the impact of taxation?

9.8.8 What is the statutory cap on the maximum Compensatory Award in this case?

10 Remedy for EqA claims

10.1 What recommendations, if any, would be appropriate?

10.2 What compensation, if any, should the Respondent be ordered to pay to the Claimant? In particular:

10.2.1 What financial losses has the discrimination caused the Claimant? But for the discrimination, would the Claimant have been promoted to a Professor, if so when?

10.2.2 Has the Claimant taken reasonable steps to mitigate loss and reduce their lost earnings (for example, by looking for another job)? If not, for what period of loss should the Claimant be compensated?

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

10.2.4 Has the discrimination caused the Claimant personal injury? How much compensation should be awarded for that?

10.2.5 Did the ACAS Code of Practice on Discipline and Grievance Procedures apply?

Did the Respondent or the Claimant unreasonably fail to comply with it? If so, is it just and equitable to increase or decrease any award payable to the Claimant?

10.2.6 Is there a chance that the Claimant would have been fairly dismissed in any event, or for some other reason? If so, should the Claimant's compensation be reduced? By how much?

10.2.7 What interest, if any, should be added to the Compensatory Award?

10.2.8 Does the Compensatory Award need to be grossed up to take into account the impact of taxation?

Employment Judge Maidment

Date 2 September 2025

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

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