

Case No: 6008215/2024



EMPLOYMENT TRIBUNALS

Claimant: Mr M Mumisa

Respondent: Cambridge Students' Union

HELD AT: Cambridge (in person) **ON:** 18, 19, 20, 21, 24, 25, 26, 27
and 28 August 2026

BEFORE: Employment Judge Booth
Non-legal member Harris
Non-legal member Smith

REPRESENTATION:

Claimant: In person

Respondent: Mr Mark Green (Counsel)

JUDGMENT

1. The claimant's complaint of direct discrimination because of race is not well founded and does not succeed.
2. On 27 June 2024, the claimant's line manager stated that the claimant had called her a racist during a heated discussion, which created a hostile and intimidating environment for the claimant. The claimant's complaint of harassment related to race arising from this incident is well-founded and succeeds.
3. The claimant's complaint of harassment related to race in connection with any incident other than that of 27 June 2024 is not well founded and does not succeed.
4. On 10 July 2024, the claimant's line manager sent the claimant an email expressing concern about a gap in contact between him and the student he was supporting. The claimant's complaint of victimisation arising from this incident was withdrawn during proceedings and is dismissed on withdrawal.

5. The claimant's remaining complaint of victimisation in connection with is not well founded and does not succeed.

REASONS

Introduction

1. The claimant, Mr Michael Mumisa, brings a complaint that the respondent, Cambridge Students' Union, has directly discriminated against him because of his race, harassed him in relation to his race, and victimised him because he had done one or more protected acts under the Equality Act 2010. The respondent concedes that the claimant had done protected acts but disputes all other parts of the claim and asserts that any part of the claimant's complaint falling before 7 May 2024 is submitted outside the time limits set down in section 123 of the Equality Act 2010 (taking into account any extension permitted under section 140 of the Equality Act 2010).
2. The Tribunal reviewed documentary evidence contained within the bundle of documents consisting of 842 pages, which included the parties' pleadings and agreed list of issues.
3. In preparation for the final hearing, the claimant made an application for disclosure and the respondent's representative gave assurances that a thorough search for relevant documents had been conducted. Despite this, during the course of the final hearing, the respondent made further disclosures of documents.
4. On 17 August 2026, the day before the final hearing, the respondent disclosed three documents:
 - a. A script prepared for use in the probationary review meeting of 30 August 2026. This script differs from the notes of the same meeting and is relied on by the respondent as a draft script prepared in advance of the meeting.
 - b. A spreadsheet used by Caroline Way to track progress of the claimant's cases. The respondent asserts that this document draws information from their Case Manager system and from Independent File Reviews that the claimant would have seen during his employment.
 - c. Notes of a meeting between Harriet Saunders and Caroline Way on 27 June 2024, after a meeting with the claimant on the same day.
5. These additional documents were relevant to the issues to be determined and amounted to an additional 12 pages. The respondent asserted that they had been disclosed to the claimant in response to his subject access request. The claimant could not recall whether he had received them in the subject access request but confirmed that he had time to read them and update his cross-examination preparation during the Tribunal's reading time. The documents were added to the bundle at pages 843 to 854.
6. On 19 August 2024, the respondent disclosed two documents:

- a. A document intended to duplicate pages 254 to 272 of the bundle in an easier to read format.
 - b. An Independent File Review that was supposed to be in the bundle at pages 284 to 287 but had been replaced with a duplicate of another document in error. The respondent's representative confirmed that information from this document was also included in the spreadsheet disclosed on 16 August 2024.
7. This disclosure was made on day two of the claimant giving evidence. The respondent's representative confirmed that he did not intend to refer to these documents in cross-examination of the claimant. The claimant was concerned that he did not have time to consider these additional documents and confirmed that he would prefer to rely on the information already in the bundle. The claimant was advised he could review the documents and reconsider his position if he wished to do so. The Tribunal considered the interests of both parties and concluded that neither would materially benefit from the admission of the documents, accordingly these documents were not admitted into evidence.
8. On 21 August 2024, the respondent disclosed five further documents. During the disclosure process, the claimant had sought disclosure of information on seven specific student cases and had received disclosure for two of the seven cases. This disclosure was for the remaining five cases. The respondent's representative advised that the omission was due to the respondent's solicitor. This disclosure was made on day three of the claimant giving evidence. The respondent's representative confirmed that he did not intend to refer to these documents in cross-examination of the claimant. These documents were relevant to the claimant's contention that his colleagues, Simona Obeng and Rachel Wilson, made similar errors or omissions in their work to him. The respondent's representative conceded that they would have made some similar errors or omissions. It was agreed that respondent witnesses would not be called until Monday (24 August 2024), to allow the claimant time to consider whether he wished to cross-examine on these documents. The documents were added to the bundle at pages 855 to 861.
9. The Tribunal heard evidence from the claimant and from the following witnesses for the respondent:
 - a. Caroline Way.
 - b. Gabbi Foreman.
 - c. Harriet Saunders.
 - d. Oli Gray.
10. The following are referred to within this judgment:
 - a. Caroline Way, Advice and Welfare Manager from 12 February 2024 onwards.
 - b. Christina Kennedy, Chief Executive Officer.
 - c. Fanni Pirik, Reception and Admin Coordinator.
 - d. Fergus Kirman, Chair of Board of Trustees.
 - e. Harriet Saunders, HR and Office Manager.
 - f. Gabbi Foreman, Director of Membership Engagement.

- g. Gemma Douglas, Advice and Welfare Manager until December 2023.
- h. Karen Mullally, outsourced HR service.
- i. Oli Gray, Director of Enterprise and Services.
- j. Rachel Wilson, Senior Student Advisor.
- k. Simona Obeng, Student Advisor.
- l. Simon To, Deputy Chair of Board of Trustees.

Issues to be Determined

Time Limits

11. Early conciliation took place from 10 June 2024 to 13 June 2024. The claim form was presented on 9 August 2024.
12. Accordingly, any complaint about something that happened before 7 May 2024 may not have been brought within the time limit in section 123 of the Equality Act 2010.
13. In respect of such complaints, do they form part of conduct extending over a period?
14. If so, was the claim made to the Tribunal within three months (plus early conciliation extension) of the end of that period?
15. If not, were the claims made within a further period that the Tribunal thinks is just and equitable? The Tribunal will decide:
 - a. Why were the complaints not made to the Tribunal in time?
 - b. In any event, is it just and equitable in all the circumstances to extend time?

Direct Race Discrimination

16. The claimant is Black African. He compares his treatment to the treatment of white colleagues working as Senior Advisors and Advisors.
17. Did the respondent do the following things:

	POC para.	Date	Event/allegation	Perpetrator/s	Comparators
1	8-11	23/1/2024	The claimant's case recording practices were scrutinised unfairly at a Reflective Practice Meeting.	Oli Gray, Rachel Wilson, Simona Obeng.	Rachel Wilson, Simona Obeng.
3	16	1/2/2024	The claimant was scrutinised and probed about how he entered his hours on Slack.	Oli Gray	Rachel Wilson
4	33-39	6-7/2/2024	Simona Obeng stated the claimant should not have phoned Cambridge Trust to make a general enquiry after a home student had approached the Advice Service seeking	Simona Obeng, Oli Gray.	Simona Obeng (on 24 April 2024 SO discussed general case information in a meeting with a third party and was not told she had breached the

			information, and that by doing so he had breached the Advice Service's confidentiality policy; Oli Gray supported Simona Obeng's position on the matter.		Advice Service's confidentiality policy).
5	40	7/2/2024	The claimant was questioned about his use of Slack.	Oli Gray	Rachel Wilson
6	40	7/2/2024	Training on the case management system that the claimant requested and was promised on 7/2/2024 in preparation for the six-month probationary review was never provided.	Oli Gray	Hypothetical
7	50, 53	20/3/2024, 25/03/2024	Caroline Way ambushed the claimant in a meeting on 20/3/2024 and accused the claimant of dishonesty, then she trivialised the incident as "confusion" in her email of 25/3/2024.	Caroline Way	Simona Obeng
8	60	3 May – August	By August Caroline Way had reviewed only one of Simona Obeng's cases and 2 of the claimant's.	Caroline Way	Simona Obeng
11	63	May	Caroline Way did nothing to support the claimant with his workload during Simona Obeng's 2 weeks' annual leave and on 14 May she passed an appointment to the claimant at 12 minutes' notice which she had missed.	Caroline Way	Caroline Way

10. Was that less favourable treatment? Did less favourable treatment amount to a detriment?

11. If that was less favourable treatment, was it because of the claimant's race?

- Can the claimant prove primary facts from which, in the absence of any other explanation, the Tribunal could decide that the difference in treatment was because of the claimant's race?
- If so, what is the respondent's explanation? Can they prove a non-discriminatory reason for any proven treatment?

Harassment

12. Did the respondent do the following things:

	POC para.	Date	Event/allegation	Perpetrator/s
2	14	1/2/2024	The claimant was subjected to an intrusive and unwarranted line of questioning about his office hours, whereabouts, breaks and any instance of leaving the office building.	Oli Gray.

18	97-102	27/6/2024	Caroline Way said "I am offended. I cannot understand why my intentions do not matter. You are calling me a racist."	Caroline Way.
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13. If so, was that unwanted conduct?

14. Did it relate to the claimant's race?

15. Did the conduct have the purpose of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant?

16. If not, did it have that effect? The Tribunal will take into account the claimant's perception, the other circumstances of the case and whether it is reasonable for the conduct to have that effect.

Victimisation

18. It is agreed between the parties that the claimant did the following protected acts:

- a. On 8 May 2024, statements made by him at the start of his 6-month probationary review meeting with Oli Gray and Caroline Way about discrimination he had experienced under them (para. 62 POC).
- b. On 8 May 2024, immediately after his 6-month probationary review meeting, an email to Oli Gray, Caroline Way and Harriet Saunders detailing the issues raised during the probationary review meeting on 8 May 2024 (para. 62 POC).
- c. On 15 May 2024, statements made in a meeting with Hannah Saunders (HR) reiterating C's concerns about discriminatory practices he had observed and experienced (para. 65 POC).
- d. On 5 June 2024, statements made in an email to Fergus Kirman, Trustee providing background and details of his situation and grievance (POC para. 75).
- e. On 6 June 2024 at an all-staff meeting C shared his experiences of discrimination and those of another Black colleague who had recently resigned after failing his probation (POC para. 83).
- f. On 7 June 2024, statements made in an email to Christina Kennedy about discrimination (POC para. 85).
- g. On 28 June 2024, statements in an email to Christina Kennedy (POC 109).
- h. On 28 June 2024, statements in a second email to Christina Kennedy (subject "Leveraging the Probation") about discrimination (POC 110).
- i. On 9 August 2024, C submitted a race discrimination and victimisation claim to the Employment Tribunal (amendment to the claim on 24 January 2025).

17. In his amended particulars of claim, the claimant cited the following as a purported protected act: on 5 June 2024, statements made in an email to Christina Kennedy regarding whether the document on grievance procedures

was available on the website (POC para. 76). The respondent disputed that this amounted to a protected act. At the commencement of the hearing, the claimant confirmed that he no longer intended to rely on this as a protected act.

18. Did the respondent do the following things:

	POC para.	Date	Event/allegation	Perpetrator/s
9	62	8/5/2024	At the conclusion of the meeting, the claimant's probation was extended by 3 months.	Caroline Way, Oli Gray.
10	62	10/5/2024	Caroline Way refused to adjust the 2-3 day timeframe for responding to student emails.	Caroline Way.
12	65	15/5/2024	Harriet Saunders suggested filing a grievance solely against Caroline Way.	Harriet Saunders.
13	67	24/5/2024	Caroline Way provided the claimant with a Self Improvement Plan which imposed additional tasks and scrutiny on him.	Caroline Way.
14	73	29/5/2024	Harriet Saunders told the claimant his proposal for an independent and external review of his work was not feasible.	Harriet Saunders.
15	86-87	7/6/2024	Simona Obeng approached Caroline Way to challenge the support and guidance the claimant had provided to a student instead of communicating her opinion directly to the claimant.	Simona Obeng.
16	89-95	13/6/2024	Caroline Way denied a student who asked to be seen by the BME Advisor access to the BME Advisor (the claimant) and the Student Advisory Service.	Caroline Way.
17	96	26/6/2024	Caroline Way ambushed the claimant by calling him for a meeting with her and Harriet Saunders about whether he was able to work without informing him in advance what the meeting was about.	Caroline Way, Harriet Saunders.
19	104-109	28/6/2024	Christina Kennedy interrogated the claimant about the discrimination issues he had raised and in an intimidating tone reminded him that he was still on probation and that it had been extended for three months.	Christina Kennedy, Harriet Saunders.
20	111	2/7/2024	Christina Kennedy provided inaccurate notes of the 28 June 2024 meeting in a tone and style that presented the claimant as the problem and troublemaker.	Christina Kennedy.
21	n/a	n/a	n/a	n/a
22	115-116	1-2/8/2024	Caroline Way introduced independent file reviews then unexpectedly did an independent file review on one of the claimant's cases before the next Reflective Practice meeting and brought it up at the next 1:1 meeting as a point of discussion.	Caroline Way.
23	Amended claim (as amended on 24 January 2025)	30/8/2024	The claimant's employment was terminated during a probationary review meeting by Caroline Way and Harriet Saunders.	Caroline Way, Gabbi Foreman.

19. The claimant's amended particulars of claim included an additional complaint, which had been included as number 21 in the list of issues. This was that, on 10 July 2024, Caroline Way sent the claimant an email expressing concern about a gap in contact between him and a student he was supporting. The claimant withdrew this complaint during the hearing.
20. By doing so, did it subject the claimant to detriment?
21. If so, was it because the claimant did a protected act?

Findings of Fact

Chronology

22. On 20 November 2023, the claimant commenced employment with the respondent in the Student Advice Service. The claimant confirmed that Oli Gray was part of a panel of three people who interviewed and appointed him.
23. The claimant is Black African. There were approximately 20 staff in the Student Advice Service. When the claimant commenced employment, three staff were black (including the claimant). At all material times for the purposes of this claim, the claimant was the only black Student Advisor. The rest of the team, including the claimant's colleagues, his line managers and the senior management team were all white.
24. The claimant was employed in the role of BME Student Advisor. The Tribunal understands that the acronym BME refers to Black and Minority Ethnic. The claimant confirmed that he had no prior experience as an Advisor, but he had taught under graduates while doing his PhD. The claimant confirmed that he had not been subject to formal line management before joining the respondent.
25. The claimant's employment was subject to a six-month probationary period which could be extended by up to a further four months (page 174). The claimant's contract of employment stated that he should take regular breaks (page 175) and that he could choose to work additional hours but would not be paid for doing so (page 176).
26. The claimant's line manager was Gemma Douglas from 20 November 2023 to late December 2023. When Gemma Douglas left her role, Oli Gray became the claimant's line manager on an interim basis until February 2024 when Caroline Way became the claimant's line manager.
27. The claimant described that Gemma Douglas informed him that performance issues would be raised one-to-one and not in front of the whole team and that his performance during probation would be assessed on several criteria including: how he engaged with students in face to face meetings; successful completion of an Equality, Diversity and Inclusion project; successful design and delivery of welfare training to student representatives (*); demonstration of a commitment to equal opportunities (*); completion of a Mental Health First Aid

course; and learning and keeping up to date with the University and Colleges' rules and regulations relating to students. The objectives marked with (*) are recorded in the claimant's job description (pages 68, 684). The claimant did not refer to any other record of these objectives and did not claim to have shared them with Oli Gray or Caroline Way. Oli Gray described that, when Gemma Douglas handed over to him, his understanding was that the priority was to get the claimant to the standard expected of Advisors and to get him through probation, rather than there being a set list of objectives. Caroline Way stated that, other than the claimant's job description, she had not seen any document that recorded objectives or expectations set for the claimant by Gemma Douglas. The Tribunal finds that Oli Gray and Caroline Way were not aware of any objectives that may have been agreed between the claimant and Gemma Douglas.

28. The claimant's job description set out various duties and essential skills including:

- a. Manage sensitive and confidential information and maintain accurate, up-to-date and confidential records of undertaken casework (page 683).
- b. Undertake tasks and take responsibility for casework in a prompt and communicative fashion and to a high quality, as directed by the Advice and Welfare Manager (page 683).
- c. Have excellent organisational skills and the ability to respond to queries in a timely and professional manner (page 686).

The Tribunal finds that these points relate to the requirements for Advisors to (i) update Case Manager records in a prompt manner and with a good level of detail (ii) and respond to student enquiries in a prompt manner. It is noted that no specific timescale is stipulated. The Tribunal finds that the claimant was aware that these requirements formed part of this role from the start of his employment.

29. The claimant described that Gemma Douglas, informed him that the Slack channel was used to communicate information about whereabouts and that he should follow his colleagues' lead as to how they recorded their whereabouts. The claimant described that Gemma Douglas informed him that Slack was not used to monitor working hours. The claimant described that he was issued with a time sheet to record his working hours (referred to in a meeting recorded on Monday.com (page 265). The Tribunal finds that there is no evidence that Gemma Douglas and the claimant had a more detailed discussion about the use of Slack than this or that an agreement was reached with the claimant in respect of a flexible working pattern.

30. There is no evidence of issues with the claimant's performance before 23 January 2024 and nor has the claimant raised any concerns about this period. In a meeting with Oli Gray in December 2023, the claimant expressed that he had been assisted by Simona Obeng, Rachel Wilson and Oli Gray who were "generous with their time and knowledge" and Oli Gray stated that "the quality of MM's BME student support review was to a high standard and was well presented to the rest of the team" (page 267). In this discussion, the claimant also stated that he was becoming more familiar with Case Manager and how to update files (page 267).

Complaint 1: the claimant's case recording practices were scrutinised unfairly at a Reflective Practice Meeting, 23 January 2024, by Oli Gray, Rachel Wilson and Simona Obeng.

31. On 23 January 2024, the claimant attended a Reflective Practice Meeting with Oli Gray, Rachel Wilson and Simona Obeng (pages 212 to 215).
32. The claimant's Job Description (pages 682-684) described that the claimant's responsibilities included to "participate in weekly Reflective Practice meetings to discuss and feedback on the teams casework, and share knowledge, identified systemic issues and good practice with other Advisors" (page 683). The claimant described that he had been to at least four Reflective Practice Meetings with the respondent before this and understood them to be forums in which colleagues could volunteer to disclose information about cases they were working on to be discussed.
33. The claimant described that this particular Reflective Practice Meeting was different in tone, layout and content to previous and subsequent Reflective Practice Meetings. He described that Oli Gray, Rachel Wilson and Simona Obeng sat opposite him like a panel and that the tone of the meeting felt different and intimidating to him. Oli Gray stated that Reflective Practice Meetings took place around a round table that could seat six people. He could not recall whether the spare chairs were removed. The Tribunal finds that there may have been a seating arrangement in which Oli Gray, Rachel Wilson and Simona Obeng were seated closer together and the claimant felt more distanced.
34. The claimant was asked about specific cases he was working on. This was a different format to the voluntary discussion in other Reflective Practice Meetings. He was not informed in advance that this discussion would take place. Towards the end of the meeting, the claimant was provided with a document setting out feedback on his cases (pages 214-215). Examples of the feedback points included: not enough information in case notes; missing case notes; and missing summaries of cases. The claimant described that he was encouraged to add more detail to Case Manager for his cases. In evidence, the claimant agreed that all of the points in the feedback document were fair points to raise with him and that he had no objections to them. In his amended particulars of claim, the claimant described that he felt the feedback was "unduly harsh" (page 28). However, he did not repeat this assertion in witness evidence, instead he confirmed that there was nothing wrong with his colleagues pointing out areas for improvement and that his was normal for someone who was learning and in their probationary period.
35. In his amended particulars of claim, the claimant described the tone of the meeting as "aggressive and hostile" (page 28). However, he did not raise concerns about the way the meeting was conducted in subsequent emails or meetings, including his three-month review. In evidence, the claimant did not repeat the assertion that the meeting was aggressive and hostile. When asked

whether the meeting was hostile, the claimant responded that the tone was “different” and that he felt “a bit intimidated”.

36. The claimant described that he asked Rachel Wilson how to include a case summary on the case detail page and that, when she opened one of her cases to show him, it revealed that she had also omitted the case summary from her case. The claimant felt that he had been unfairly criticised for his own omission of case summaries. The Tribunal finds that it was reasonable for the claimant to feel this way.
37. The Tribunal finds this was an hour-long meeting and the focus was on the claimant’s cases throughout the meeting. There is no evidence that there was discussion of other Advisors’ cases, including in terms of sharing good practice, such as showing examples of good case records on Case Manager. The Tribunal finds that this was not the intent of a Reflective Practice meeting and that it was reasonable for the claimant to feel singled out. The Tribunal finds that the claimant’s work was the only work scrutinised and this may have been felt to be unfair.
38. The respondent described that the claimant was subject to different scrutiny to his colleagues because he was a new Advisor and on probation. It was put to the claimant that a white employee working as an Advisor and on probation would have mistakes raised with them in the same way; the claimant confirmed twice that he believed they would. The Tribunal finds that Oli Gray, Rachel Wilson and Simona Obeng chose to give the claimant feedback on his files in the Reflective Practice meeting because he was in his probationary period.

Complaint 2: the claimant was subjected to an intrusive and unwarranted line of questioning about his office hours, whereabouts, breaks and any instance of leaving the office building, One-to-One Meeting, 1 February 2024, by Oli Gray.

39. On 1 February 2024, during a one-to-one meeting with Oli Gray, the claimant was questioned regarding his office hours and breaks.
40. The claimant described that this included questions about routine breaks for basic needs, including short breaks to visit the lavatory. The claimant described this questioning as intrusive and said that he felt embarrassed, humiliated and demeaned having to justify ordinary workplace breaks. In his witness statement, Oli Gray stated that he never asked the claimant about his use of toilet facilities. However, when asked whether the claimant had to explain about his breaks and using the toilet Oli Gray agreed that was “likely”. The Tribunal finds that Oli Gray suggested to the claimant that he had been taking a lot of breaks away from his desk and that the claimant may have felt it necessary to explain his breaks, including breaks to use the toilet. The Tribunal finds that the claimant may have found this exchange awkward or embarrassing.
41. The claimant described that this also included questions about longer breaks and that he explained to Oli Gray that when he left the office, he tended to go to a café a short walk away that other colleagues used and that he often accompanied other colleagues when he did so.

42. When the claimant's grievance was investigated, Oli Gray informed Karen Mullally that the reason he asked the claimant these questions was that multiple members of staff had said that the claimant seemed to disappear from the office for extended periods and took extended personal phone calls in a corridor during work time (page 728). In evidence, Oli Gray described that it was believed the calls were personal because they were being made on the claimant's personal phone. The claimant confirmed that he could not use his personal phone for work but stated that he did sometimes use his personal phone to contact the respondent's IT department (page 665-666). The respondent does not suggest that the claimant was made aware that Oli Gray's questions were prompted by concerns about telephone calls. Oli Gray described that he might have been more likely to ask how the claimant was and how he could support him, rather than go in with a line of questioning. The claimant accepted that if he had known about Oli Gray's concerns at the time, he would have understood why Oli Gray needed to ask the questions. The Tribunal finds that Oli Gray had a good reason for asking the claimant about his breaks, being his concern that the claimant was taking extended breaks away from his desk including for personal telephone calls, and that the questions were not unwarranted.
43. On 2 February 2024, the claimant sent an email to Oli Gray, Simona Obeng and Rachel Wilson. His email starts with that statement that he was "filled with immense gratitude for the unwavering support and guidance each of you has offered me". The claimant then went on to clarify his whereabouts. He explained that he took an hour-long lunch break each day and short breaks away from his computer screen during the day (pages 222-223). The claimant did not mention breaks to use the toilet. Nor did he refer to intrusive questioning or feeling upset by the discussion. The Tribunal finds that the claimant is very polite in his communication style and that his opening words do not, on their own, mean that the claimant was comfortable with the questions asked of him. However, the Tribunal also finds that the claimant had a good working relationship with Oli Gray and therefore would have felt able to tell him if he felt uncomfortable. The Tribunal therefore concludes that the claimant did not feel humiliated and demeaned.
44. On 4 February 2024, Oli Gray responded to thank the claimant for his email and said that he was happy to clarify anything further if needed (page 223).
45. In his amended particulars of claim, the claimant alleged that scrutiny about his working hours and breaks persisted and that he felt that he had to reduce his intake of fluids in order to reduce the frequency of his lavatory visits (page 33). However, the claimant did not refer to any further occasions on which he was asked about his breaks. The Tribunal therefore finds that this is the only occasion on which the claimant was asked about his breaks.
46. The Tribunal finds that this line of questions was not unwarranted and did not go further or become intrusive.

Complaint 3: the claimant was scrutinised and probed about how he entered his hours on Slack, One-to-One Meeting, 1 February 2024, by Oli Gray.

47. Slack is a messaging platform. It allows users to set up different “channels” or messaging groups for different subjects. The respondent had a Slack channel called “whereabouts” that was set up when staff began working remotely during COVID to allow staff to communicate about when they were available online. Oli Gray described that the purpose of the Slack channel is to facilitate communication and flexible working arrangements, and not to monitor the total hours worked by individuals.
48. During Gemma Douglas’s line management, she asked the claimant about the hours he was logging on Slack and noted that he appeared to be working late. The claimant has not raised a concern about Gemma Douglas’s question. In evidence, the claimant described that this was because he believed Gemma Douglas was happy for him to work additional hours. However, this is not reflected in the notes of the discussion, which record that when Gemma Douglas asked the claimant why he had worked late the claimant responded to explain he had forgotten to log out (page 266).
49. In the meeting with Oli Gray on 1 February 2024, the claimant was asked about his Slack entries on the whereabouts channel. The claimant described that Oli Gray explained to him in the meeting that the reason for his questions was to make sure that the claimant was not working late to check on his wellbeing.
50. Oli Gray described that he had concerns about the claimant’s working patterns including that additional hours appeared to be being worked without any apparent business need or management approval. In evidence, Oli Gray described that his questions were intended to be supportive. He described that as the claimant was new to the organisation and they were new at working together, he felt it was important to understand the claimant’s working patterns and make sure that he was using his time appropriately and not overworking.
51. The claimant did not feel that Oli Gray was raising this out of concern for his welfare. The claimant described that his colleagues were allowed to work additional hours to improve themselves and that he wanted the same opportunity. It was put to the claimant that, as a newer member of staff, it was reasonable for Oli Gray to ask him about his working hours to ensure that he could get through his work without working additional hours and the claimant agreed that this was reasonable and that it was right that a manager should not ignore that someone was working late.
52. Harriet Saunders described that the claimant was asked about his use of Slack out of concern for his welfare because he was working quite late in the evening with no formal agreement. She confirmed that the respondent offers flexible working, but it is always discussed with the line manager first and that if a colleague worked late without an agreement from their line manager, she would expect them to be asked about it. In evidence, Oli Gray stated that he talks to all of his direct reports about their working patterns and that flexible working needs to be agreed with line management. Harriet Saunders and Oli Gray were

not aware of any agreement reached between the claimant and Gemma Douglas. The Tribunal has found that there is no evidence of such an agreement.

53. It is noted that the concerns raised with the claimant about his working hours were not raised as an allegation of misconduct, the claimant was not instructed to change his hours and he was not subject to any formal procedure in connection with his hours. When the claimant's grievance was investigated, Oli Gray informed Karen Mullally that the claimant improved on updating his whereabouts on Slack and that this was not a further issue (page 728).
54. The Tribunal finds that Oli Gray asked the claimant about the hours he was working, as logged on Slack, as part of a conversation with the claimant to set the scene about how the respondent works, and out of concern for the claimant's welfare and a wish to understand his working pattern and whether he was able to manage his workload without a need to work additional hours. The Tribunal finds that there is no evidence that Gemma Douglas told the claimant she was happy for him to work additional hours or that Oli Gray told the claimant he could not work additional hours, should he wish to do so.
55. In the meeting, the claimant described to Oli Gray that he used Slack to record his whereabouts in the same way as other colleagues, including Rachel Wilson. On 1 February 2024, the claimant emailed Oli Gray and said that the claimant's recording of his whereabouts on Slack was the same as Rachel Wilson had done that same day (page 217). The claimant opened the email by saying that "it was great having the 1:1 chat this afternoon" and again did not refer to intrusive questioning or feeling upset by the discussion. As stated above, the Tribunal finds that the claimant is very polite in his communication style and that this, of itself, does not mean that the claimant was comfortable with the questions asked of him. However, the Tribunal also finds that the claimant had a good working relationship with Oli Gray and therefore would have felt able to tell him if he felt uncomfortable.
56. The sample Slack messages show that Rachel Wilson posted at 2.17pm that she was heading home for school pick up and would be back online just after 4pm, that she posted at 4.20pm that she was back online for the next hour or two, and at 7.12pm that she was logging off. Similarly, Simona Obeng posted at 4pm that she was heading home and would be back online at 6pm, she posted at 6.15pm that she was back online for a bit, and she posted at 7.04pm that she was logging off. (Pages 219-220). The claimant described that this occurred regularly and was consistent with the flexibility he understood to be available to all staff. The claimant described that he aligned his own practices with his colleagues.
57. The claimant explained that his complaint was not about the motive or about the way the questions were asked. He explained that he had a good relationship with Oli Gray. He explained that he was upset because he knew that other members of staff were recording information on Slack in the same way as him and his complaint is about how that made him feel. In evidence, Oli Gray described that Rachel Wilson worked part time and so her recording of time

would differ to the claimant's. He also stated that he had conversations with Rachel Wilson about her working pattern in her one-to-one meetings. The Tribunal finds that Oli Gray would have had similar conversations about hours logged on Slack with other members of staff, including Rachel Wilson.

58. The Tribunal finds that the claimant was not scrutinised about his hours or how he entered his hours on Slack.

Complaint 4: on 6/ 7 February 2024 Simona Obeng stated the claimant should not have phoned Cambridge Trust to make a general enquiry after a home student had approached the Advice Service seeking information, and that by doing so he had breached the Advice Service's confidentiality policy; Oli Gray supported Simona Obeng's position on the matter.

59. The claimant described that, at the start of every meeting with a student, he (and other Advisors) would tell the student that the meeting is confidential and that they would not disclose the student's confidential information without the student's permission. The claimant explained that this applied to the student's name, the college they attended, any information that might help to identify the student, and what their case was about.
60. The claimant described that a student he was advising had applied to the Cambridge Trust, a charity which provides scholarships for students. This student had not received a response for several months and had a query about whether the Cambridge Trust provided scholarships to students with British nationality in addition to international students. The claimant telephoned the Cambridge Trust to ask this question, without disclosing the identity of the student and without obtaining the consent of the student.
61. The claimant described his understanding that both the respondent and the Cambridge Trust are part of the University of Cambridge. He explained that if a student indicates that they need financial support on their application to the University of Cambridge, their application form is forwarded to the Cambridge Trust rather than a separate application form being required. Oli Gray described that Cambridge Trust is a separate, external organisation.
62. On 6 February 2024, at the end of a Reflective Practice Meeting, the claimant stated that he had contacted the Cambridge Trust to ask a general query of whether they provided scholarships to "home" students. The claimant described that Simona Obeng stated that he should not have done this and that his actions breached the respondent's Student Advisory Service's Confidentiality Policy. This is not disputed by the respondent.
63. When questioned, the claimant accepted that Simona Obeng must have thought that the claimant's actions were in breach of the Confidentiality Policy. However, he did not agree. The claimant stated that he did not believe there was a breach because he did not disclose the identity of the student. It was put to the claimant that the fact there had been an application from a "home" student before his enquiry, might enable the Cambridge Trust to identify who his enquiry was about. The claimant explained that the Cambridge Trust had been asked

by the government to support home students and could have been getting thousands of applications. However, the claimant confirmed that he did not know this information at the time of making his enquiry.

64. On 6 February 2024, the claimant emailed Simona Obeng to thank her for her advice and stated "I agree with you that once an email or inquiry reaches us, it is protected by all our confidentiality policies (page 228). In evidence, the claimant stated that he did not mean this and did not agree with Simona Obeng's interpretation of the Confidentiality Policy. The claimant stated that he made this comment to avoid a conflict. The Tribunal finds that, at this time, the claimant accepted and understood that his actions in making the general enquiry were in breach of the respondent's Confidentiality Policy.
65. Simona Obeng responded by sending the claimant a copy of the Authorisation to Act form that is used to record consent from students to the Student Advisory Service contacting third parties on their behalf (page 228-229). She explained that before contacting third parties, the Advisors discuss with the student what information will be disclosed and give the student an opportunity to agree to the level of information to be disclosed. The claimant agreed that Simona Obeng's email was polite, with no criticism or reprimand.
66. On 7 February 2024, in his three-month review meeting Oli Gray brought up the discussion about the Cambridge Trust in the Reflective Practice Meeting and informed the claimant that when the team do any external work they get full permission from the student and complete all relevant paperwork. Oli Gray advised the claimant to read the respondent's Confidentiality Policy if needed (page 249). The claimant confirmed that this advice was given kindly. The claimant responded that he had checked this after the meeting and it had dawned on him that the Confidentiality Policy applies as soon as an email from a student reaches the respondent and that he would need to get their permission first (page 250). When questioned, the claimant confirmed that he was willing to accept Simona Obeng's and Oli Gray's view at this time, because they were his employers.
67. In his amended particulars of claim, the claimant described that he felt he was restricted from making a general enquiry to undermine his work and his ability to fully support the students who sought his assistance. However, in evidence the claimant confirmed that his complaint is not that Simona Obeng would not have made the same comments to a white person. The Tribunal finds that Simona Obeng and Oli Gray would have made the same comments to a white Advisor who had made a similar general enquiry to a third party as the claimant.
68. The claimant described that his complaint is that he was treated differently to others, that it appeared that he was restricted whereas Simona Obeng and others were not and the difference between them was race. This is because, in a meeting with Office of Student Complaints, Conduct and Appeals (OSCCA), on 24 April 2024, Simona Obeng and other team members shared general information about cases the Student Advisory Service was working on to another party without disclosing student personal information and this was not challenged as a breach of confidentiality.

69. The parties agree that OSCCA is part of the University of Cambridge. Oli Gray described that the respondent's Student Advisory Service meet with OSCCA regularly and work closely with them on student matters. The claimant confirmed that the Student Advisory Service collaborates with OSCCA in the same way as other departments within the University, such as the International Office and Colleges. The claimant described that he regards the Cambridge Trust as part of the University in the same way as OSCCA. The respondent asserts that it is a separate organisation. The Tribunal finds that OSCCA is part of the University of Cambridge and that the Cambridge Trust is a separate, external organisation.
70. The Tribunal finds that the two situations are not comparable. In the first, the claimant contacted an external organisation and raised an enquiry on behalf of a student. Although the claimant did not disclose the student's name, he could not be certain that the student would not be identifiable to the external organisation, which is why the safeguard of a consent form is utilised by the respondent. In the second, the respondent's team took part in a regular discussion with an internal department in which issues and themes were discussed in a general sense and from which student information would not be identifiable.

Complaint 5: on 7 February 2024, the claimant was questioned about his use of Slack.

71. On 7 February 2024, the claimant attended a three-month probation review meeting with Oli Gray and Harriet Saunders. The notes of the meeting are dated 16 February 2024 (pages 246-252).
72. In evidence, the claimant referred to being constantly questioned about his use of Slack. However, he then clarified that it had only happened on two occasions, this being the second occasion. Oli Gray described that it was raised for the second time in the three-month review because this was a meeting to consolidate points that had come up in one-to-one meetings.
73. The claimant stated that Oli Gray asked him how he was using Slack. The claimant responded that Gemma Douglas had told him that the information on Slack was used so that the team knew when they could get in touch with each other, rather than monitoring their working hours. The claimant described that he had followed the lead of his colleagues when recording his whereabouts (page 250). The claimant said that he was happy to work overtime without pay and Oli Gray said that there shouldn't be a need for the claimant to work additional hours and that time off in lieu could be offered where necessary (page 250). The claimant confirmed that Oli Gray did not criticise the way the claimant was using Slack. The claimant explained that his complaint is that he was asked about how he was using Slack when he was using it in the same way as his colleagues.
74. As above (complaint 3), the Tribunal finds that Oli Gray asked why the claimant was working in the evenings because Oli Gray had no record of an agreement for the claimant and out of concern for the claimant's welfare and a wish to

understand his working pattern and whether he was able to manage his workload without a need to work additional hours. The Tribunal has found that Oli Gray would have had similar conversations with other members of staff, including Rachel Wilson. The Tribunal finds that the claimant was not scrutinised about his hours or how he entered his hours on Slack.

Chronology

75. On 7 February 2024, in the three-month probation review meeting with Oli Gray and Harriet Saunders (pages 246-252), the claimant stated that he had been empowered by colleagues with “constructive criticism, advice and support” and indicated that there was a friendly culture (page 247).
76. In the meeting, the claimant described that he had to improve in relation to case management. He said that the earlier cases he had worked on during his training had some errors in, but that he had corrected those and his more recent cases did not have errors (pages 247-248). Oli Gray responded that there was no concern about the quality of the claimant’s work and that although getting emails checked takes time, the purpose was to support the claimant and to avoid students getting incorrect advice (page 242). Oli Gray stated that the claimant was a valued member of the team (page 251).
77. The notes of the three-month review meeting follow a template referred to as “the probation structure” (page 246) and include competency in role, quality of work, timely completion of tasks, relationship with other staff and attendance and punctuality (page 246). The Tribunal finds that, by the three-month review meeting, the claimant was aware that the structure of assessment for his probation included the category of timely completion of tasks.
78. The template notes of the meeting record that the manager will raise that any areas for improvement will be shared through a development plan. The claimant confirmed that Oli Gray had not stated that the claimant would get a development plan.

Complaint 6: the training on the case management system that the claimant requested and was promised on 7/2/2024 in preparation for the six-month probationary review was never provided.

79. In a meeting with Gemma Douglas, which must therefore have taken place in or before December 2023, the claimant stated that he was grateful for support from Gemma Douglas, Oli Gray, Simona Obeng and Rachel Wilson and said that he was becoming more familiar with Case Manager and how to update files (page 267).
80. In the claimant’s email to Oli Gray, Simona Obeng and Rachel Wilson of 2 February 2024, he stated that he was focusing on familiarising himself with Case Manager (page 223). In evidence, the claimant confirmed that he had been trained on Case Manager by shadowing others and teaching himself.

81. On 7 February 2024, in the three-month probation review meeting with Oli Gray and Harriet Saunders (pages 246-252). The claimant described that he asked for additional training on the Case Manager system and Oli Gray confirmed in evidence that that was also his recollection. Oli Gray stated that he was surprised the claimant asked for formal training in this meeting because he had already been using Case Manager for three months by this time. The claimant stated that this training was never provided.
82. The claimant confirmed that he did not follow up on his request for training, or his belief that he would get a development plan, with Oli Gray because he and the team were very busy and he was aware that Oli Gray was an interim manager and they were waiting for a permanent manager to be appointed. The Tribunal finds that the claimant asked Oli Gray for additional training on Case Manager. The Tribunal finds that Oli Gray did not provide or facilitate this because he was busy.
83. Shortly after the three-month review meeting, Caroline Way replaced Oli Gray as the claimant's line manager. The claimant confirmed that he did not follow up on his request for training in one-to-one meetings with Caroline Way, even as it got close to his six-month review in May 2024. The claimant described that he did not expect his six-month review to be so focused on his use of Case Manager. The Tribunal finds that Caroline Way did not provide or facilitate additional training on Case Manager in preparation for the six-month review because she was not aware of the claimant's request.
84. The Tribunal therefore finds that neither Oli Gray nor Caroline Way provided the claimant with Case Manager training discussed in the three-month review meeting in preparation for the six-month review meeting.
85. Although the claimant's complaint is limited to the period between the three-month and six-month review meetings, the Tribunal has considered evidence about the provision of training following the six-month review meeting for wider context and evidential comparator data.
86. The claimant explained that it became apparent to him in the six-month review meeting that his use of Case Manager would be a key part of assessing his performance in probation. The claimant therefore repeated his request for additional training and expanded on this to request "formal" training. In evidence, the claimant explained that this would include a written plan of what aspects of the Case Manager system would be taught, when and by whom; and a record of his attendance and performance within the training. The claimant confirmed that he did not specifically ask for the training to be delivered in this way; he simply asked for additional formal training.
87. The claimant's request was made in the six-month review meeting on 8 May 2024. The notes record that the claimant stated that feedback on his work had been heavily reliant on Case Manager (page 295) and asked whether other Advisors had had more formal training (page 296). The claimant confirmed that Caroline Way offered to train him on Case Manager in the discussion. On 8 May 2024, the claimant emailed Caroline Way, Oli Gray and Harriet Saunders

(page 300-303). His email included a request for formal training, “a single session a week for a month or two, with regular monitoring of progress” (page 301). On 9 May 2024, in their one-to-one meeting (page 488) and in an email of 10 May 2024, Caroline Way repeated her offer to sit with the claimant and train the claimant on Case Manager (page 309). The claimant confirmed that he declined this offer of training and stated that this was because it was not in line with his request for “formal” training. However, the claimant agreed that, after this, Caroline Way spent time with him on Case Manager and showed him aspects of the system that he didn’t know existed. For example, the Quick Advice Given tool (page 486). On 13 May 2024, Caroline Way sent the claimant a link to a YouTube video about Case Manager (page 406). The Tribunal finds that by 13 May 2024, the claimant had requested formal training with some limited information about what his expectations were, which included monitoring of his progress. The Tribunal finds that Caroline Way had offered to sit with the claimant and train him on Case Manager. The Tribunal finds that the claimant declined this offer of training because it did not meet his expectations of a training plan and monitoring of progress, but he did not clearly explain this to Caroline Way. The Tribunal finds that there is no evidence that Caroline Way sought to understand why the claimant rejected the offer of training.

88. The Self-Improvement Plan issued on 24 May 2024 (page 316) states “CW to offer training days on case notes”. In evidence, Caroline Way confirmed that she had not diarised these training days because the claimant had said he was not happy with the offer of her training him. However, she felt that the offer remained on the table and that the claimant could have taken it up at any time including in discussion in their weekly one-to-one meetings. The Tribunal finds that the statement that Caroline Way would offer training days was made after the claimant had initially rejected the offer of training and that it was reasonable for the claimant to expect these training days to be diarised.
89. It appears that there were no further discussions between the claimant and Oli Gray or Caroline Way about the training over the following weeks. However, the claimant may have raised a concern about this within his grievance because on 19 June 2024, Christina Kennedy emailed Oli Gray and Caroline Way (page 351). She asked them what development was offered to the claimant to enable him to feel confident in using Case Manager. Oli Gray could not recall if or how he responded to this query but thought he would have explained that use of Case Manager is learned on the job and not through formal training. Caroline Way explained that there had been an online meeting shortly after this. She couldn’t recall what she said but explained that she would have explained that she had offered one-to-one training days to the claimant to use her expertise.
90. On 20 June 2024, in a one-to-one meeting, Caroline Way showed the claimant how to use an aspect of Case Manager called Quick Advice Given (page 486). On 21 June 2024, Caroline Way emailed the claimant a summary of the meeting and said “my offer to spend a couple of days working through Student Case Manager with you remains”. Again, the claimant did not take this offer up. In an exchange with Caroline Way during cross examination, the claimant acknowledged that Caroline Way had been helpful in showing him “tricks” here and there but repeated that he had asked for formal training. As above, the

Tribunal finds that Caroline Way had offered to sit with the claimant and train him on Case Manager and that the claimant declined this offer of training because it did not meet his expectations of a training plan and monitoring of progress but did not clearly explain this to Caroline Way. The Tribunal finds that it would have become evident to Caroline Way that the claimant still wanted additional training as it had been raised to Christina Kennedy, but there is no evidence that Caroline Way sought to understand why the claimant rejected her offer of training.

91. On 12 July 2024, in a one-to-one meeting with Gabbi Foreman, the claimant confirmed that he had received training from Gemma Douglas to get familiar with Case Manager (page 484). He did not repeat the request for formal training.
92. The grievance investigation report, dated 15 August 2024, makes a recommendation for “more formal training on Case Manager as it is such an important part of an Advisor’s role” (page 550). Caroline Way stated that, in her view, her offer to sit with the claimant and train him on Case Manager was in line with the report’s recommendation.
93. In evidence, Caroline Way explained that she has expertise on Case Manager, having worked with it for several years. She explained that she believed that the best way for people to learn how to use Case Manager was through observation and practice, and that she is best placed to provide training on Case Manager due to her knowledge and experience with the system. Caroline Way explained that she has subsequently trained two new Advisors, one of whom is white. She described that she has trained them through observation of colleagues and practice, and sitting with her to go through the back end of the Case Manager system.
94. The Tribunal considered that different people learn in different ways and that it was reasonable for the claimant to want a formal training plan. The Tribunal finds that Caroline Way did not have a clear understanding of what the claimant was asking for and did not take steps to explore this further with him.
95. It was put to the claimant that Simona Obeng and Rachel Wilson did not receive formal training on Case Manager. This was confirmed to the claimant in Caroline Way’s email of 10 May 2024 (page 309). The claimant described that they were allowed to develop their knowledge of Case Manager over time. He stated that he felt that he either needed formal training or to be allowed more time to develop his knowledge. The Tribunal finds that no Student Advisors were offered formal training.
96. The Tribunal finds that the failure to provide formal training to the claimant was due to a combination of a lack of understanding and exploration of what he was asking for and Caroline Way’s belief that the best way to provide training was through observation, practice and sitting with her to learn from her expertise.

Complaint 7: Caroline Way ambushed the claimant in a meeting on 20/3/2024 and accused the claimant of dishonesty, then she trivialised the incident as “confusion” in her email of 25/3/2024.

97. In his amended particulars of claim, the claimant described that he and Gemma Douglas had agreed that he would be accompanied by another Advisor in face-to-face meetings with students in the first months of his probation. On 25 March 2024, the claimant sent a message to Caroline Way on 25 March 2024 (page 394), explaining that he had asked Simona Obeng whether she was available to accompany him to a meeting because “I had not been told by anyone that I could now have appointments by myself”. In evidence, the claimant disputed that he had been told he needed permission before having meetings on his own with students but accepted that he had been told that Rachel Wilson or Simona Obeng would decide whether he needed to be accompanied or not. The Tribunal finds that the claimant was aware that he needed permission before having meetings on his own with students.
98. In early March 2024, the claimant approached Simona Obeng to ask her about her availability to attend a meeting with him and a student he was advising. The claimant described that Simona Obeng informed him that she had observed him in previous meetings and was confident that he could handle meetings on his own from that time on. When Simona Obeng was interviewed about this as part of the grievance investigation in August 2024, she described that she had informed the claimant that he could see that particular student on his own because they had done most of the work already. However, she stated that she had not said he could see all students on his own and that he was not ready to do so. (Page 506). It was put to the claimant that Simona Obeng was speaking specifically about meetings with that particular student, because they had been working on the case together and Simona Obeng had already met with the claimant and the student together. The claimant agreed that he could have misunderstood what Simona Obeng said to him. The Tribunal finds that the claimant reasonably understood at the time that Simona Obeng meant he could attend all student appointments on his own.
99. On 7 March 2024, Caroline Way queried some case files with the claimant where information hadn’t been updated on Case Manager (page 388) and the claimant responded on 8 March 2024 to explain the position on each file (page 389). In his message, next to one particular student’s name, the claimant stated that Simona Obeng had said that she did not need to accompany him to appointments anymore and was confident that he could handle “all appointments” by himself, but he had told her he would be happy if she joined the appointment (page 389). The Tribunal finds that this statement indicates that the claimant believed he could attend all appointments with students by himself and there is no evidence that Caroline Way followed this up with the claimant.
100. On 13 March 2024, the claimant informed Fanni Pirik that Simona Obeng had told him he no longer needed to be accompanied to meetings with students (page 253). Caroline Way described that Fanni Pirik brought this to her attention because she was confused and Caroline Way was concerned that the claimant

had started taking appointments on his own without discussing this with her as his line manager. The Tribunal finds that Caroline Way was unhappy at actions that appeared to disregard her authority.

101. On 19 March 2024, the claimant was due to attend an appointment with a student and to be accompanied by Caroline Way. When Caroline Way did not arrive, the claimant held the meeting with the student in her absence (page 281). The claimant confirmed that he was not criticised for doing this. The Tribunal finds that it is reasonable that this would have reinforced the claimant's assumption that Simona Obeng meant he could attend all student appointments by himself, rather than referring to a particular student.
102. On 20 March 2024, the claimant attended a weekly one-to-one meeting with Caroline Way. Harriet Saunders joined the meeting as HR. There are no notes of this meeting. The claimant stated that he did not expect Harriet Saunders to join the meeting and felt that it was an ambush. The respondent accepts that the claimant was not made aware in advance that Harriet Saunders would join the meeting. Caroline Way described that she asked Harriet Saunders to join the meeting because she (Caroline Way) was new to the organisation and that she had asked HR to join other meetings with other members of staff. The claimant accepted that there may have been a valid reason for HR to be present and confirmed that his complaint is not that he felt ambushed, but that he was labelled dishonest by Caroline Way. The claimant also confirmed that he is not alleging that a white colleague would have been given notice of HR attendance at the meeting. The Tribunal finds that Harriet Saunders' presence in the meeting was unexpected, but not an ambush.
103. The claimant described that Caroline Way referred to his assertion that he could hold student meetings unaccompanied in his message to Fanni Pirik and labelled him dishonest. The claimant could not recall the exact words that Caroline Way had used. He confirmed that she did not say "you are dishonest" and she did not say "open and honest communication is important". He described that whatever words Caroline Way used, it was clear to him that she considered him dishonest.
104. It was put to the claimant that he accurately recalled other parts of the discussion and quoted them in his witness statement:
 - a. At paragraph 134, he recalls that he said "In all the years I have worked, this is the first time that I have been labelled dishonest. There are other people in this story, and yet it is only my honesty that is being questioned. It makes me wonder what the only difference between me and the other people in the story is". The claimant stated that he remembered this accurately because he wrote it down straight afterwards. The claimant has not disclosed a record of this. The claimant could not explain why he did not also write down Caroline Way's words in labelling him dishonest, save that he had understood what she said.
 - b. At paragraph 137, he recalls that Caroline Way said that her "choice of words" may have been "unfortunate". At paragraph 138, he recalls that Harriet Saunders said "I don't think there is anything further to look into".

The claimant confirmed that he did not write these comments down, but had remembered them.

105. Caroline Way described that the meeting was a fact-finding meeting and states that she cannot recall calling the claimant dishonest and does not believe that she did so as she would be very careful about using such language. Caroline Way suggested that if honesty had been discussed it would have been in the context of emphasising the importance of open and honest communication, on the basis that the claimant may have made a mistake and she wanted him to be able to tell her about it and for them to have a conversation. Harriet Saunders confirmed that there was a mention of honesty. Both Harriet Saunders and Caroline Way could recall that the claimant was unhappy about it because he felt that Caroline Way was calling him dishonest. Caroline Way recalled that the claimant may have said that his honesty had never been questioned before in his career.
106. The Tribunal finds that Caroline Way made a statement at the start of the meeting that it was important to be “open and honest”. The Tribunal finds that this statement implies that there is reason to believe the persons present might not otherwise be open and honest and that it was reasonable for the claimant to draw an inference that Caroline Way was calling him dishonest.
107. The Tribunal further finds that the intent of the meeting was a fact-finding meeting, in the form of an investigation. This indicates that Caroline Way viewed the claimant’s alleged actions as serious and more than a simple misunderstanding that could be corrected less formally. The Tribunal finds that Caroline Way suspected that the claimant had decided, unilaterally, to conduct student appointments on his own without her authority and approached the fact-finding meeting with suspicion.
108. Harriet Saunders confirmed that she and Caroline Way had also spoken to Simona Obeng and Fanni Pirik. She could not recall whether this was before or after they spoke to the claimant. She could not recall whether the word honesty came up in those meetings. Caroline Way did not recall honesty coming up in the conversation with Simona Obeng but explained she does not have clarity because the meeting was a long time ago and there are no notes. The grievance investigation report, dated 15 August 2024, stated that Caroline Way “believed the subject of honesty was brought up by her in [the claimant’s] 1-2-1 but cannot remember the exact wording and context. It is not clear if his colleague’s honesty was questioned in the same way.” In evidence, Caroline Way confirmed that she had not said the second sentence to Karen Mullally. The Tribunal finds that this was a summary of Karen Mullally’s conclusions. The Tribunal finds that Caroline Way did not use the same opening wording about the need to be “open and honest” with Simona Obeng.
109. It was put to Harriet Saunders that Simona Obeng had stated in the investigation of the claimant’s grievance that she had been told by Harriet Saunders that Harriet Saunders has told the claimant “if anything like it happened again action would be taken” (page 506). Harriet Saunders confirmed that she could not recall saying this to Simona Obeng and had not

said it to the claimant. The Tribunal finds that this further indicates that Caroline Way approached the meeting with the claimant in line with a formal investigation and believed that the claimant may have done something wrong that would warrant further formal action.

110. The Tribunal finds that Caroline Way used a form of wording from which it could reasonably be inferred that she was accusing the claimant of dishonesty.
111. The claimant described that the meeting caused him to feel humiliated, undermined and anxious and that he cried afterwards and found it difficult to sleep. The Tribunal finds that this incident had a significant impact on the claimant.
112. On 25 March 2024, Caroline Way asked the claimant to share a copy of his Slack message to Fanni Pirik. She said "I am keen to tie up all the loose ends relating to the confusion of last week" (page 393). The claimant sent the message and explained the context that he had asked Simona Obeng to accompany him and she had said that she didn't need to, rather than him telling her that he wanted to handle the meeting on his own (page 394). Caroline Way thanked the claimant and confirmed that a "misunderstanding has happened" (page 394). In evidence, the claimant confirmed that he was not criticising Caroline Way for referring to the incident as a confusion. The claimant described that his complaint was that he had been called dishonest when his white colleagues were not and that there had been an attempt to minimise that rather than apologise for it.
113. The Tribunal finds that Caroline Way and Harriet Saunders concluded from their investigation that the claimant had misunderstood Simona Obeng's guidance and that it was reasonable to refer to the situation as a "confusion" or a "misunderstanding".
114. On 27 March 2024, the claimant attended a further meeting with Caroline Way and Harriet Saunders. Caroline Way explained that she wanted to move on from the incident because things felt "awkward", however the claimant described that she did not apologise for calling him dishonest. The claimant said "I am willing to treat what happened as water under the bridge, if we are all going to learn from it."

Chronology

115. On 18 April 2024, the claimant attended a weekly one-to-one meeting with Caroline Way. No issues were raised in relation to his performance (page 489).
116. On 25 April 2024, the claimant attended a weekly one-to-one meeting with Caroline Way. No issues were raised in relation to his performance (page 488-490).

117. On 3 May 2024, the claimant attended a weekly one-to-one meeting with Caroline Way. No issues were raised in relation to his performance (page 488). However, an Independent File Review was discussed (see complaint 8).

Complaint 8: By August Caroline Way had reviewed only one of Simona Obeng's cases and two of the claimant's.

118. In May 2024, in a Reflective Practice Meeting, Caroline Way informed the claimant and Simona Obeng that she planned to introduce an Independent File Review ("IFR") process under which Advisors' case files would be reviewed. In evidence, the claimant confirmed that he understood this would be a good tool. The claimant described that Caroline Way informed them that the intention was for him to review one of Simona Obeng's files, for Simona Obeng to review one of his files, and for Caroline Way to review two each of his and Simona Obeng's files. Caroline Way confirmed that this is what was agreed and that her intention had been to treat the claimant and Simona Obeng equally. Caroline Way further confirmed that she had not initially intended to adapt the approach due to the claimant being on probation.
119. On 3 May 2024, Caroline Way carried out an Independent File Review of one of the claimant's files (page 849). She suggested that it is helpful to send an appointment summary email to the student after the appointment to help them remember what was discussed. The claimant agreed that this was fair feedback. At some time after this, Caroline Way carried out a second Independent File Review of one of the claimant's files. This was not included in evidence. The Tribunal finds that the claimant did not raise any concerns about the content of the Independent File Reviews carried out by Caroline Way.
120. On 3 May 2024, Simona Obeng also carried out an Independent File Review of one of the claimant's files (page 849). The claimant prepared a response to Simona Obeng's comments (pages 290-291). The claimant was unhappy with the content of Simona Obeng's Independent File Review.
121. The claimant described that Caroline Way reviewed two of his files, but only one of Simona Obeng's files (page 492), which was contrary to her stated intention to review two of each of their files. The respondent does not dispute this.
122. It was put to the claimant that the reason Caroline Way reviewed two of his files and only one of Simona Obeng's files is that she was busy and that she prioritised the claimant because he was on probation. The claimant was asked how he would have felt if Caroline Way had said from the start that she intended to review two of his files and one of Simona Obeng's files because he was on probation, and he said that he would have accepted that. The Tribunal finds that Caroline Way reviewed two of the claimant's files because the claimant was on probation. The Tribunal finds that Caroline Way did not review two of Simona Obeng's files because she was busy.

Complaint 9: at the conclusion of the six-month review meeting on 8 May 2024, the claimant's probation was extended by three months.

123. Caroline Way described that before the six-month review meeting, she reviewed the claimant's files and case notes and that one of the principal concerns was the timing and quality of case note recording. She accepted that the changes to his line management may have made it more difficult for the claimant to demonstrate his abilities and felt that he was capable of improvement. Caroline Way explained that this was why she extended the claimant's probation as opposed to dismissing the claimant. Caroline Way stated that she had made the decision to extend the claimant's probation before the six-month review meeting and informed Oli Gray of her decision before the meeting started. However, this is not recorded in the witness statements of either Caroline Way or Oli Gray. The Tribunal finds that Caroline Way had made the decision to extend the claimant's probationary period before the six-month review meeting. The Tribunal finds that there is no evidence that Caroline Way communicated this to Oli Gray. The Tribunal finds that there is no evidence that Oli Gray contributed to this decision.
124. In evidence, the claimant confirmed that keeping full and accurate case records was an important part of his role and that, if it was not done, it could cause a problem for the respondent in terms of insurance and in terms of colleagues' being able to cover each other's files. The claimant confirmed that he could recall discussing cases where records had not been finished in one-to-one meetings with Caroline Way. The claimant also confirmed that, at the time of the six-month review, he had some cases which did not have notes on them and were not up to date for various reasons.
125. The Tribunal has found that the claimant's job description set out various duties and essential skills that relate to the requirements for Advisors to (i) update Case Manager records in a prompt manner and with a good level of detail (ii) and respond to student enquiries in a prompt manner. The Tribunal has found that the claimant was aware that these requirements formed part of this role from the start of his employment. The Tribunal has further found that by the three-month review meeting, the claimant was aware that the structure of assessment for his probation included the category of timely completion of tasks. Accordingly, the Tribunal finds that the claimant was aware by the time of the six-month review meeting that there was a need for him to update Case Manager records in a prompt manner and with a good level of detail, and that he was failing to do so in some cases.
126. On 8 May 2024, the claimant attended his six-month probation review with Caroline Way and Oli Gray (pages 292-298). The claimant described that, at the start of the meeting he raised concerns regarding race discrimination and unfair treatment. The respondent does not dispute this and concedes that this was a protected act. The Tribunal finds that this is the first occasion on which the claimant did a protected act.
127. The claimant described that he said:
- a. He had requested training on Case Manager, but this had not been provided. He had learned how to use it through observing colleagues and had noted inconsistencies in the way Case Manager was used by

different members of the team. The respondent's notes record that the claimant said he had received less training on Case Manager than Simona Obeng and Rachel Wilson and was hoping for more training (page 293). The notes also record that the claimant said he was grateful for Caroline Way's advice on Case Manager (page 294).

- b. Issues raised with him about his use of Case Manager could also be found in the work of other team members, including some of those reviewing his work. This is a reference to Simona Obeng and Rachel Wilson. He explained that he felt that it was unfair that these issues were repeatedly raised with him and that he regarded the difference in treatment as race discrimination. The claimant stated that some of the feedback received felt unnecessarily personal, demeaning and distressing, and had caused him sleepless nights. This is recorded in the respondent's notes (page 293).
- c. The Independent File Review process should be accompanied by clear standards for use to ensure that the process was applied fairly and consistently across the team. The respondent's notes record that Caroline Way agreed to review the process to avoid discriminatory practice and that the claimant stated that Caroline Way's feedback is always given "without judgment" (page 294).
- d. It was important to ensure that Black, Asian and other ethnic minority staff felt safe working in the respondent's environment.
- e. He welcomed supervision, reviews and constructive feedback and was not seeking an exemption from supervision.
- f. He wanted standards to be applied fairly and consistently to all members of the team, supported by training, and free from discrimination.

128. The claimant described that Caroline Way asked him if he would like to speak to Harriet Saunders, to which he responded that he was describing his experiences because he hoped that the respondent would reflect on them and introduce measures to reduce discrimination and improve fairness for staff.

129. The notes record that Caroline Way said that the claimant had the potential to be an excellent advisor and had good interactions with students and staff (page 297). She went on to explain that some of the claimant's case notes were not up to date and that this "complete and timely response and record keeping was an outstanding requirement to passing the probationary period" (page 297). The claimant described that Caroline Way named a particular student as an example, but when they looked at that file the case notes were up to date and so Caroline Way apologised. This error is recorded in the respondent's notes (page 295). In evidence, Caroline Way explained that the way the notes had been inputted wasn't in line with typical use of Case Manager, which made it confusing. She also stated that she recalled looking at more than one case with the claimant. The claimant disputes this. However, the Tribunal notes that, in any case, the claimant had agreed that some of his case notes were not up to date (page 295 and in cross-examination, as above). The Tribunal finds that several of the claimant's cases had not been updated on Case Manager by the time of the six-month review meeting.

130. Caroline Way also explained that that some replies to students were outside the 2-3 working days timescale (page 297). The notes record that the claimant said that “religiously following timescales in replying to students is unrealistic” (page 296). The claimant confirmed, when questioned, that he had said this because he was not managing to respond to students within 2-3 working days (see complaint 10 below).
131. At the conclusion of the six-month review on 8 May 2024, the claimant's probation was extended for a further three months. The Tribunal finds that it was reasonable for the respondent to extend the claimant's probation.
132. Caroline Way said that this extension was to give the claimant an opportunity to demonstrate that he could reply to students within the committed timeframe (page 297), update records in a timely manner (within 24 hours of appointment/ correspondence) (page 298) and send advice to students in writing confirming what is discussed in an appointment (page 298). The claimant confirmed that he understood Caroline Way had told him that the timely completion of case records was a requirement to him passing his probation in the six-month review meeting. The Tribunal finds that the claimant was given clear guidance that the requirement for him passing the extended probation was to meet the following three objectives: to demonstrate that he could reply to students within the committed timeframe of 2-3 working days; to update records on Case Manager within 24 hours of the appointment or correspondence; and to send advice to students in writing confirming what is discussed in an appointment.
133. In evidence, the claimant agreed that it was reasonable for Caroline Way to give him these points to work on. The claimant explained that his complaint is not about the way Caroline Way conducted the meeting or about the reasonableness of these points to work on. The claimant explained that his complaint is that his probation was extended based on these points because these were not the objectives set for him by Gemma Douglas when he started and he did not realise that they were conditions for him passing his probation. The Tribunal finds that this position is not supportable. The claimant agreed that he was aware with the content of his job description and the three-month review meeting. Further, the claimant gave evidence that Caroline Way spoke to him about updating his case records on Case Manager in one-to-one meetings. The claimant also agreed that he was aware of the policy of replying to students within 2-3 working days. The Tribunal therefore finds that the claimant should reasonably have understood that these points would be relevant to the assessment of his performance.
134. It was put to the claimant that his complaint is that if he hadn't raised his concerns about discrimination at the start of the meeting, then Caroline Way would have passed his probation. The claimant stated that he was not saying that. The Tribunal finds that this is fundamentally at odds with the claimant's claim of victimisation.

Chronology

135. Following the meeting, the claimant sent an email to Oli Gray, Caroline Way and Harriet Saunders detailing the issues he had raised (page 300-303). The respondent concedes that this is a protected act.
136. Caroline Way discussed the claimant's concerns with Gabbi Foreman and Oli Gray (page 497). There are no notes of this discussion.
137. On 9 May 2024, the claimant attended a weekly one-to-one meeting with Caroline Way. Caroline Way said that she was sorry that the claimant had been feeling discriminated against and asked him why he had not raised his concerns sooner. Caroline Way said that she would report the concerns to Harriet Saunders. The claimant stated that he did not have a problem with any individuals, it was an organisational issue. Caroline Way confirmed that the probation extension was to allow further review and the claimant said that he just wanted a fair outcome, whether that be pass or fail. (Pages 487-488).
138. On 10 May 2024, Caroline Way emailed the claimant to acknowledge the concerns that he had raised and to confirm that she had informed Harriet Saunders, who would contact him. Caroline Way went on to cover other matters from the six-month review meeting, including Case Manager training (see complaint 6), the claimant's concern that his use of Case Manager had been used against him and that he was being scrutinised more closely than other members of staff who had made similar failings to himself (complaint 14) and the intention to re-introduce Independent File Reviews after the next Reflective Practice meeting (complaint 22) (Pages 309-310).

Complaint 10: Caroline Way refused to adjust the 2-3 day timeframe for responding to student emails.

139. It is not in dispute that the respondent has a policy that Student Advisors must respond to student emails within 2-3 working days. This policy applies equally to all Student Advisors. In the three-month review meeting, Oli Gray confirmed that the claimant still needed to have his emails checked and acknowledged that this would take additional time (page 243). Oli Gray also stated that the claimant was handling this well and that, if necessary a holding email could be sent (page 244).
140. In the claimant's amended particulars of claim, he described that the policy of responding to student emails within 2-3 working days was a regular topic of discussion in team meetings and that there was a consensus that it was becoming difficult for the team to adhere to this policy (page 38). In evidence, the claimant described that these discussions took place before and after 8 May 2024. In evidence the claimant also described that Caroline Way was part of the consensus that found it difficult to adhere to the policy. In evidence, the claimant described that he felt Caroline Way changed her position after he raised concerns about race discrimination in his six-month review meeting on 8 May 2024, from being part of the consensus that the policy was difficult to adhere to, to refusing to make an adjustment. However, in the claimant's amended particulars of claim, he described that Caroline Way showed strong reluctance to adjusting the policy (page 38). The Tribunal finds that Caroline

Way had shown strong reluctance to adjust the 2-3 day timeframe before the claimant's first protected act, which took place on 8 May 2024.

141. The claimant described that Fanni Pirik informed him and Caroline Way that the policy had been adjusted during busy periods in the past and that Caroline Way responded that only Gabbi Foreman could make the change. Caroline Way confirmed that she had a vague recollection of this. The claimant confirmed in evidence that Caroline Way's position did not change before and after 8 May 2024, and that this may have been because she did not have authority to adjust the policy. The Tribunal finds that Caroline Way's decision not to adjust the 2-3 day timeframe remained consistent before and after the claimant's first protected act, which took place on 8 May 2024.

142. In the claimant's six-month review meeting on 8 May 2024, Caroline Way raised that some of the claimant's replies to students were outside the 2-3 working day timescale and the claimant said that "religiously following timescales in replying to students is unrealistic" (page 296). The claimant confirmed, when questioned, that he had said this because he was not managing to respond to students within 2-3 working days. Caroline Way described that the claimant told her he had already informed his students that his replies might fall outside this timescale due to staffing levels. The claimant described that he asked for an adjustment to the policy during Simona Obeng's two weeks' leave in May because he was the only Advisor working at that time. Caroline Way explained that, although the claimant described feeling busy, she believed that the increase to his work has minimal. Caroline Way described that she had come from another organisation with a much busier Advice service. The Tribunal finds that the 2-3 working days timescale applied to all Student Advisors, which at that time included the claimant and Simona Obeng. The Tribunal finds that the claimant was unhappy with the 2-3 working days timescale before Simona Obeng's two weeks' leave and that this was not the sole reason for his request for an adjustment.

143. On 10 May 2024, in her email to the claimant, Caroline Way stated that she is committed to the response time and the standard policy of responding to students within two to three working days would not be adjusted. However, she states that she will review how the team can work with the demands and explore other solutions. (Page 310). In evidence, Caroline Way described that the 2-3 day deadline was important and delays in responding to students could increase stress for them. She described that she would have told Gabbi Foreman that she did not want to move away from it. In evidence, the claimant agreed that the policy was in place to ensure that students aren't waiting too long for a response and that Caroline Way might have refused the adjustment if he had raised concerns about something else, such as bullying. The Tribunal finds that Caroline Way refused to adjust the 2-3 working days timescale because she regarded this as an important service standard for delivering advice to students.

Complaint 11: Caroline Way did nothing to support the claimant with his workload during Simona Obeng's two weeks' annual leave and on 14 May she passed an appointment to the claimant at 12 minutes' notice which she had missed.

144. In mid-May 2024, Simona Obeng was absent on leave for a period of two weeks. The claimant contends he was left with an increased workload and that Caroline Way did not support him. Caroline Way described that there was a slight increase, but that it was minimal and the claimant did not have a large workload compared to her experience in her previous organisation.
145. The Tribunal has found that Caroline Way offered support to the claimant during this period in the form of training on Case Manager (complaint 6).
146. The Tribunal has found that Caroline Way declined to adjust the 2-3 working day timescale for responding to student enquiries (complaint 10).
147. When asked what other support he felt was missing, the claimant described that Caroline Way took on student appointments during Simona Obeng's leave to assist with workload but passed them back to him to do. The Tribunal was referred to only two occasions of this:
 - a. A request for the claimant to see a student on 14 May 2024 (see below); and
 - b. A request for the claimant to see a student on 24 May 2024 because she was not available that day and would then be on annual leave herself (page 408).
148. With regards to the request for the claimant to see a student on 14 May 2024, the claimant's complaint is that Caroline Way asked him to cover a student appointment for her within only 12 minutes notice. Caroline Way is the respondent's Safeguarding Lead. She explained that she was instructed by senior management to do an urgent welfare check concerning a student, which required immediate action. The claimant confirmed that he accepted this explanation. In any event, the claimant was not able to cover the appointment due to an issue with the meeting link.
149. The claimant confirmed that his complaint is not that, if he were white Caroline Way would have acted differently by not doing the welfare check and passing the appointment to him. The claimant explained that his complaint is that he was treated less favourably than Caroline Way (his comparator) because they were both on probation at the time and if he had not gone to one of his appointments or given an appointment to someone else at short notice and with no explanation, he would not have "got away with it".
150. The Tribunal finds that Caroline Way offered appropriate support to the claimant during Simona Obeng's two weeks' leave and only two appointments were passed to the claimant, one of which he was not able to complete in any event.
151. The Tribunal finds that Caroline Way passed the two appointments to the claimant for good reasons. The first being a need to complete a welfare check and the second being a lack of availability.

Complaint 12: Harriet Saunders suggested filing a grievance solely against Caroline Way.

152. On 15 May 2024, Harriet Saunders met the claimant to discuss the concerns that he had raised during the six-month review on 8 May 2024. In evidence, Harriet Saunders confirmed that she had not taken notes of this discussion because it was informal. She believed she may have noted down some action points as a personal note in her note book, but this has since been lost or destroyed. It is concerning that no notes were taken of a discussion, however informal, where it was known in advance that the subject of the discussion would be an employee's concerns about discrimination.
153. The claimant described that he explained that his concerns related to what he perceived to be systemic issues within the organisation, rather than the conduct of any one individual. The claimant did not identify any individual members of staff because he wanted the organisation to consider the wider organisational issues. The respondent concedes that this was a protected act.
154. Harriet Saunders asked the claimant if he wanted to raise a grievance against Caroline Way. The claimant states that this was the first time Caroline Way's name was introduced during the discussion. When questioned, the claimant accepted that Caroline Way was his line manager, that she had led the six-month review meeting on 8 May 2024 and that part of his concerns related to provision of training and the extension of his probation. The claimant accepted that Harriet Saunders may have asked whether he wanted to raise a grievance against Caroline Way because she was trying to understand what he wanted to do. In evidence, Harriet Saunders described that the claimant had raised concerns about how Caroline Way was treating him and so she suggested a grievance against Caroline Way as an option.
155. The Tribunal noted that Harriet Saunders was relatively inexperienced in her HR role and that she had not dealt with a discrimination allegation before.
156. The claimant described that he informed Harriet Saunders that he did not consider it fair or accurate to attribute his concerns solely to Caroline Way because the concerns he had raised began before Caroline Way joined the Student Advisory Service and had arisen during both Oli Gray's and Caroline Way's period of management. Harriet Saunders confirmed that she recalled the claimant did not want to bring a grievance against Caroline Way, because he didn't want Caroline Way to be singled out in this way.
157. The Tribunal finds that Harriet Saunders made the suggestion as an option for the claimant to consider and that the claimant was not compelled to submit a grievance against Caroline Way or against only Caroline Way.
158. The claimant explained that his complaint is that this was a detriment to him because he felt that it was an attempt to focus his grievance on Caroline Way, which would erase his concerns about everything that had happened before Caroline Way was his line manager.

Chronology

159. On 21 May 2024 the claimant emailed Christina Kennedy and referred to a comment another member of staff had made about low morale. The claimant stated that he felt some of the key issues raised relate to discrimination in the respondent and that, although the respondent did some good work, it should not be blind to the impact that discrimination can have on all BME staff (page 311). Christina Kennedy responded to apologise if the claimant felt she had minimised “the experiences or seriousness of issues and challenges the SU are currently facing” and said that she was sorry that the claimant was feeling discrimination in the organisation. Christina Kennedy asked if she and the claimant could meet for a catch up that week (page 311). The claimant responded to say thank you (page 312). Christina Kennedy contacted the claimant again on 22 May 2023 to ask if they could meet (page 312). The claimant responded to explain that he had raised concerns in his six-month review that had been referred to Harriet Saunders (page 313). Christina Kennedy responded that if he was happy to continue the conversation with Harriet Saunders, then he didn’t need to meet Christina Kennedy but that if he wanted to talk to her at any point he should get in touch (page 314). The Tribunal finds that the claimant never took Christina Kennedy up on her offer to meet with him.

Complaint 13: Caroline Way provided the claimant with a Self-Improvement Plan which imposed additional tasks and scrutiny on him.

160. On 24 May 2024, Caroline Way produced a Self-Improvement Plan, with a review date in August 2024 (pages 315-316). The plan identified the following objectives for development: timely and accurate recording of case notes on Case Manager; attention to detail in case notes; and picking up enquiries from the Advice inbox. Each objective was identified as “high priority” and would be measured through reviews of case notes and feedback in one-to-one meetings with Caroline Way.

161. In evidence, the claimant described that the introduction of the plan soon after he had raised concerns about discrimination is part of his victimisation complaint but accepted that there could be other reasons for the Self-Improvement Plan. It was put to the claimant that the reason for the plan was to set out what he needed to improve to pass his probation. The claimant stated that he did not accept this as the real reason because the Self-Improvement Plan did not include any plan to address the issues of discrimination that he had raised including in connection with the fairness of the use of Case Manager, and it did not respond to his request for independent assessment of his use of Case Manager (complaint 14). The Tribunal finds that the purpose of the Self-Improvement Plan was to set out the objectives discussed in the six-month review meeting on 8 May 2024 and to make clear that these were a high priority for the claimant in order to help him pass his probation.

162. The claimant’s complaint is that the Self-Improvement Plan imposed additional tasks and scrutiny on him. However, in evidence the claimant described that his complaint is not that the Self-Improvement Plan imposed

additional tasks on him, but it was the fact that these tasks became the basis of the assessment of his probation that was new. The Tribunal finds that the Self-Improvement Plan did not impose new or additional tasks on the claimant.

163. As above (complaint 9), the Tribunal has found that the claimant's job description set out various duties and essential skills that relate to the requirements for Advisors to (i) update Case Manager records in a prompt manner and with a good level of detail (ii) and respond to student enquiries in a prompt manner. The Tribunal has found that the claimant was aware that these requirements formed part of this role from the start of his employment. The Tribunal has further found that by the three-month review meeting, the claimant was aware that the structure of assessment for his probation included the category of timely completion of tasks. Further, the Tribunal has found that the claimant was aware by the time of the six-month review meeting that there was a need for him to update Case Manager records in a prompt manner and with a good level of detail. The Tribunal finds that the Self-Improvement plan followed on from and clarified the objectives set out in the claimant's six-month review meeting and did not add to the basis on which his performance would be assessed.

164. The claimant confirmed that his one-to-one meetings with a line manager took place on a weekly basis, throughout his employment. There were additional meetings with other members of management relating to his concerns about discrimination, but no increase in meetings in which his work was reviewed. The Tribunal finds that the claimant was not subject to additional scrutiny.

Complaint 14: Harriet Saunders told the claimant his proposal for an independent and external review of his work was not feasible.

165. When the claimant met with Harriet Saunders on 15 May 2024, he expressed that he was surprised that his probation had been extended and said that he hoped it was not influenced by the fact he had raised concerns about race discrimination. He suggested that his use of Case Manager should be assessed independently and compared to that of his colleagues.

166. On 29 May 2024, the claimant met Harriet Saunders to discuss his concerns about race discrimination (page 317). In the meeting, the claimant explained to Harriet Saunders again that he felt that the Case Manager system was not being used in a fair and transparent way, and that the only person it seemed to be having a negative impact on was him and the only difference between him and the rest of the team was that he is black and the rest of the team is white. Harriet Saunders informed him that his request for an independent and external review of his work and performance would not be feasible.

167. The claimant described that Harriet Saunders told him that an external person would not be familiar with the respondent's service and systems and what is expected of the claimant. Harriet Saunders explained that she had taken guidance from the respondent's external HR advisor who said that it would not

be possible to have an independent review of the claimant's performance from someone who hadn't seen his work from day to day and didn't know him. Harriet Saunders explained that she liaised with the senior management team and that it was Christina Kennedy who concluded that the independent review was not feasible and that she merely communicated this to the claimant. The Tribunal finds that Harriet Saunders communicated the decision that it would not be feasible for there to be an independent and external review of his work and performance to the claimant.

168. In evidence, the claimant explained that a reviewer would only need to look at raw data from Case Manager to determine whether information was lacking on his cases compared to colleagues' cases. The claimant also suggested that the respondent had a relationship with other advisory services, such as the colleges, and that someone from one of those services could have done the review. Oli Gray confirmed that the Case Manager system allowed data to be extracted to compare the number of cases and type of cases allocated to Advisors and he thought the claimant may be correct that it would also be possible to compare the time it took to upload records and the level of attention to detail. The Tribunal finds that it would be an unusual step for an employer to ask an external person, whether part of the wider organisation or not, to review a decision to extend someone's probation unless this formed part of a grievance. The Tribunal notes that, when the claimant submitted a grievance, this was referred to an external person.

169. The Tribunal finds that, during his employment the claimant carried out his own review of the case files of his colleagues Simona Obeng and Rachel Wilson to determine whether information was lacking on his cases compared to their cases. The claimant described that the fact that Rachel Wilson's case summary was also missing (in the meeting of 23 January 2024, at complaint 1) prompted him to look at other cases that Rachel Wilson and Simona Obeng worked on after the meeting had concluded. He described that he discovered that they had made similar failings in their cases to those raised in the feedback about his cases. However, the claimant did not provide any further information or evidence in support of this. It is noted that the claimant sought specific disclosure of seven case records. Two were provided in advance of the final hearing but were not referred to by the claimant in his evidence or cross examination of respondent witnesses. The remaining five were provided on day four of the final hearing (before the claimant began cross examination). The disclosure amounted to seven pages (page 855 to 861) and was made on Friday, 21 August 2026. When the hearing resumed on Monday, 24 August 2026, the claimant stated that he did not intend to refer to the additional pages and was asked if he needed more time to review the documents before he started cross examination, he said no. The claimant did not refer to any of the seven case records in cross examination of respondent witnesses or within his submissions. In evidence, Caroline Way described that the claimant would have needed to spend a long time scrutinising Case Manager to identify failings and that any failings made by Simona Obeng and Rachel Wilson were minimal and infrequent, she gave an example of missing out the date and sender of an email when cut and paste into Case Manager. The respondent did not refer the Tribunal to any data or documents in support of this. The Tribunal finds that,

from the claimant's own review, there is no evidence from which to conclude that his colleagues made similar failings to him or at a similar frequency to him.

Chronology

170. On 30 May 2024, Varsity published an article which stated that "SU [Student Union] members have reported witnessing colleagues of minority ethnic backgrounds experiencing unfair treatment and harassment by the SMT [Senior Management Team]." (Pages 317-322).
171. On 3 June 2024, an all-staff meeting took place concerning the Varsity article and workplace culture. Management explained routes for escalating concerns, including to trustees.
172. On 5 June 2024, the claimant emailed Fergus Kirman outlining concerns about discrimination and treatment within the Student Advisory Service (pages 324-325). The respondent concedes that this was a protected act. The claimant described that:
 - a. He had had similar experiences to those referred to in the Varsity article and was aware of others who felt the same. He was concerned that this was indicative of organisational and systemic issues.
 - b. He had personally experienced discriminatory practices and unfair treatment.
 - c. He had raised concerns in his six-month review on 8 May 2024 and in a subsequent email of the same date, he had met with Harriet Saunders on 15 and 29 May 2024 for another catch up.
 - d. That he was hoping for fair treatment.
173. On 6 June 2024, the claimant spoke at an all-staff meeting about discrimination concerns and referred to the experience of another Black employee who had left their employment with the respondent. The respondent concedes that this was a protected act.
174. On 7 June 2024, the claimant emailed Christina Kennedy to outline and add to some of the points he had raised in the meeting (pages 331 to 334). The respondent concedes that this was a protected act. He stated:
 - a. There should be a focus, not only on recruiting a diverse team, but training and retaining them. He referred to his own experience, which included a lack of training on Case Manager and feeling that his use of Case Manager was then being used against him.
 - b. He referred to a redundancy situation being concocted to target a BME employee and said that if a meeting had taken place to discuss this, it would be a serious breach of the Equality Act 2010.
 - c. The issues pre-dated Christina Kennedy starting in her role as Chief Executive Officer, two months earlier.
 - d. His own experiences were in line with the information in the Varsity article.
175. On 10 June 2024, Fergus Kirman informed the claimant that his concerns had been referred to Simon To.

Complaint 15: Simona Obeng approached Caroline Way to challenge the support and guidance the claimant had provided to a student instead of communicating her opinion directly to the claimant.

176. On 7 June 2024, the claimant attended a one-to-one meeting with Caroline Way who said that Simona Obeng had raised concerns about advice the claimant had given to a student. The claimant described that the advice he had given was correct and that Simona Obeng's opinion was not in line with the correct procedures. The Slack exchange following the meeting shows that the claimant explained that he had sent the student the relevant information about examination allowances (page 335), and that Simona Obeng's feedback was not relevant because the student was doing their Masters by advanced study rather than dissertation (page 336).
177. The claimant described that his complaint is that Simona Obeng went to Caroline Way instead of coming to him. The claimant accepted that he was still under probation and that Caroline Way, as his line manager, needed to know if there were any issues with his performance. The Tribunal finds that Simona Obeng did approach Caroline Way rather than the claimant to raise the feedback. The Tribunal finds that this was reasonable given that the claimant's probation had been extended and Caroline Way was the claimant's line manager and needed to assess his performance and support him to pass his probation.
178. The claimant described that when he asked why Simona Obeng had not raised her concerns to him directly, Caroline Way informed him that it was "because of" the discrimination issues he had raised in the meeting the day before. The claimant stated this in an email to Christina Kennedy on 28 June 2026, in which he said "I asked Caroline why Simona didn't come to me with this information. She responded that it was because of the discrimination issue I had raised. This is not only victimisation under the Equality Act but also unprofessional. If this behaviour continues, it could become racial harassment." (Page 429). It is also repeated in the claimant's witness statement (paragraph 308). When questioned, the claimant amended this to say that Caroline Way said "I don't know" and "it could be because of the discrimination issue he had raised" rather than "it was because of the discrimination issue he had raised".
179. Caroline Way denied making this statement at all and described that Simona Obeng chose that route because of a previous difficult interaction with the claimant when he responded negatively to comments from her during an Independent File Review which meant that she did not feel confident to raise her concerns directly with the claimant. Simona Obeng was not called as a witness.
180. The Tribunal finds that the claimant did respond negatively to Simona Obeng's feedback in the Independent File Review on 3 May 2024 (complaint 8) and that it is likely that Simona Obeng gave this as the reason for communicating her concerns to Caroline Way. The Tribunal finds that it is likely that Caroline Way passed this on to the claimant. The Tribunal finds that neither

Simona Obeng nor Caroline Way said that it was because the claimant had raised discrimination issues.

Complaint 16: Caroline Way denied a student who asked to be seen by the BME Advisor access to the BME Advisor (the claimant) and the Student Advisory Service.

181. On 13 June 2024, the claimant was contacted by a Sabbatical Officer who had contacted the Student Advisory Service on 16 May 2024 to request support from the BME Student Advisor and had been turned away by Christina Kennedy (page 711).
182. The respondent described that the only person denied access to the Student Advisory Service was a Sabbatical Officer who was employed by the respondent at the time. The respondent described that it would not have been appropriate for that person to have access to the Student Advisory Service as it would likely have given rise to a conflict of interests. In evidence, the claimant agreed that it was logical for the respondent to conclude it was inappropriate for an Advisor to provide guidance to the Sabbatical Officer in these circumstances.
183. It appears that the same Sabbatical Officer contacted the Student Advisory Service again in August 2024 and was allocated to Simona Obeng (pages 707-708). Caroline Way described that, when she became aware of this, she intervened and so the student did not meet with Simona Obeng. Caroline Way described that the student was eventually offered an appointment with herself.
184. The claimant described that he was concerned that he was not given the opportunity to support this individual on either occasion and that he was not consulted about the decision made not to support the student, particularly knowing that he had specifically requested a BME Student Advisor in his first request and raised BME concerns in his second request.

Chronology

185. On 20 June 2024, Caroline Way reviewed the claimant's progress against the Self-Improvement Plan and discussed concerns about case recording, workload and record keeping (pages 465-486). Caroline Way noted that the claimant's recent cases were not up to date and the claimant explained this was because he had been corresponding with Christina Kennedy, Harriet Saunders and Simon To in connection with his grievance. The claimant explained that due to these interruptions to his work, it was not appropriate to expect him to meet his objectives by August 2024. Caroline Way asked the claimant to clear the open cases on the shared spreadsheet and to send some quick advice to students who hadn't engaged in the service. She asked the claimant to block in appointment slots for responding to enquiries (page 486).
186. Caroline Way emailed the claimant with a summary of their discussion (pages 352-353). She stated that she felt achieving timely and accurate case notes by August 2024 was appropriate and realistic. Caroline Way offered to

spend a couple of days with the claimant working through Case Manager with him and asked him to prioritise closing cases that were not active and updating cases where the updates had not been added. She noted that the claimant was working overtime and said that this wasn't expected of him, she offered to look at clearing the claimant's diary to allow him time to catch up. When questioned, the claimant confirmed that this was a supportive step and that it had been done "eventually".

187. On 21 June 2024, the claimant replied to Caroline Way to confirm that the HR process she referred to in her email was his significant concerns about discrimination that were having a physical and mental impact on him and had resulted in a "hostile and unsafe environment for the only Black employee left in the office." (Page 352).

Complaint 17: Caroline Way ambushed the claimant by calling him for a meeting with her and Harriet Saunders about whether he was able to work without informing him in advance what the meeting was about.

188. On 26 June 2024, the claimant returned from holiday. Caroline Way sent him a Slack message at 8.02am replying to his email of 21 June 2024 (page 352) and referring to his mention of physical and mental toll and said that she wanted to make sure that he was getting support. She suggested a meeting with her and Harriet Saunders (page 418). The Tribunal finds that the claimant was made aware of the meeting and what it would be about in advance and was not ambushed.
189. The claimant responded that the physical and mental toll was a direct result of race discrimination and that he had raised it in his six-month review meeting, and in one-to-one meetings with Caroline Way, and that he had also had meetings with Harriet Saunders about it. The claimant also referred to his emails to Christina Kennedy and Fergus Kirman. The claimant described that he was arranging support via the NHS (page 419).
190. On 26 June 2024, the claimant attended a meeting with Caroline Way and Harriet Saunders. There are no notes of this meeting. The claimant described that the opening question was whether he was able to work, to which he responded that he was working. The claimant said that there was no discussion of the physical and mental impact on him and no support offered. Harriet Saunders stated that she would not have opened the meeting with that question but confirmed that she did not challenge the claimant's recollection of the meeting as set out in his email of the same date (page 357). Harriet Saunders confirmed that she wanted to know whether the claimant was well enough to work and that was discussed. When asked whether any support was offered to the claimant, Harriet Saunders stated that the support would be the option of taking sick leave. Caroline Way described that the meeting was a welfare check, they discussed that the claimant had raised concerns about finding it hard to work and they asked if he would like to take some sick leave, which he declined. Caroline Way described that the claimant told them that he was receiving support from NHS Talking Therapies.

191. The claimant described that the meeting was an ambush because he thought it would be a discussion about his mental health and it turned into a discussion about his performance, that he was not prepared for. When questioned about the nature of the discussion about performance, the claimant described that he was asked whether he was able to work and perform his responsibilities. He confirmed that he understood he was asked this in response to his email in which he had described the physical and mental impact on him. The claimant stated that there were other questions about his performance, but could not recall what they were, and then stated that the meeting was consumed with him saying that he was physically able to work. The claimant stated that there was no discussion about his mental health but confirmed that he told Caroline Way and Harriet Saunders in the meeting that he was getting talking therapy from the NHS.

192. The Tribunal finds that the meeting was opened with a question about whether the claimant was well enough to work, given the comments in his email. The claimant was not asked more detailed questions about his performance. There was discussion about the claimant's mental health which prompted him to disclose that he was seeking support from the NHS. The discussion about support available from the respondent was limited to whether the claimant wanted to take sick leave.

193. The claimant sent an email to Caroline Way and Harriet Saunders which confirmed his recollection (page 357). In this email, the claimant described that although the discrimination had inflicted considerable stress and he was seeking support through the NHS, he persevered in his role because he could not afford to lose his income and was dedicated to his work. He stated that this was a demonstration of his resilience and not an indication that the discrimination's effects are negligible. The claimant recollected that Caroline Way and Harriet Saunders had told him that his concerns about discrimination was now in the hands of the Trustees.

Complaint 18: Caroline Way said "I am offended. I cannot understand why my intentions do not matter. You are calling me a racist."

194. On 27 June 2024, the claimant attended a one-to-one meeting with Caroline Way (page 485).

195. Caroline Way brought up the tasks in the claimant's Self-Improvement Plan and talked about blocking time in the claimant's diary to achieve these. The claimant agreed that he thought Caroline Way was trying to help him with his time management. The claimant also agreed that Caroline Way said that she didn't want him to have to work overtime to complete these tasks. The claimant confirmed that if a manager noticed someone was working late, it was wrong for the manager to ignore that.

196. The notes of the meeting record that this turned into a discussion about working hours and became a heated discussion about discrimination (page 485).

197. The claimant described that Caroline Way said she had noticed from Slack that he was often working late and that he responded that he was uncomfortable talking about Slack because it was one of the issues he had raised in his grievance. The claimant described that Caroline Way asked him to explain, and so he explained that the way he enters information on Slack is the same as his white colleagues but that he kept being asked about it. When questioned, the claimant confirmed that the only occasions on which he was asked about it were the two occasions in February 2024 detailed above. The claimant described that he referred to the questioning of him about his use of Slack as a discriminatory practice and told Caroline Way that if he should use Slack differently as a black person compared to his white colleagues then someone should tell him that. The Tribunal finds that the claimant explained what he felt was a discriminatory practice of line managers asking him about the hours he logged in Slack. The Tribunal finds that the claimant did not call Caroline Way racist.
198. In evidence, Caroline Way described that whenever she tried to say to the claimant that he had misunderstood her, or that her intent was to ask about his wellbeing, he would say that her intentions did not matter. The claimant described that Caroline Way said that "I am offended. I cannot understand why my intentions do not matter. You are calling me a racist." The Tribunal finds that Caroline Way did try to explain her intentions and the claimant said that her intentions did not matter. The Tribunal finds that Caroline Way did make a statement that she was offended and that the claimant was calling her a racist.
199. In evidence, the claimant confirmed that he could understand why Caroline Way had interpreted what he said as him calling her a racist. The Tribunal finds that it was reasonable for Caroline Way, as the claimant's line manager and someone who had just asked him about the hours he logged in Slack, to understand that the claimant was accusing her of a discriminatory practice and of being racist.
200. The claimant described that he explained in the meeting that he did not regard Caroline Way as a racist but felt that she was engaging in discriminatory practices that had started when Oli Gray was his line manager by questioning him about his use of Slack as others had done. Caroline Way confirmed this in contemporaneous notes (page 843), she recalled "He said I am not calling you a racist. I said he had stated a number of times that I had discriminated against him on the grounds of race therefore he is calling me a racist. At this point he stated that he is being discriminated against as a black man managed by white managers and I was one of them." The Tribunal finds that the claimant did try to explain that his concern was about the practice of asking him about his use of Slack, rather than about an individual manager. However, the Tribunal finds that the conversation was heated on both sides by this point.
201. Caroline Way described that she ended the meeting without a conclusion because every attempt she made to explain or defend herself was reframed into a different narrative and allegations that she was discriminating against the claimant on the grounds of his race to which she was not given space to

respond. She described that she ended the meeting in tears and felt intimidated.

202. The claimant described that he felt this was harassment because when he explained the discriminatory practices he had raised, instead of talking to him about it, Caroline Way immediately said that he had called her a racist. He described that both he and Caroline Way were upset by the meeting. In evidence, Caroline Way described that the claimant was animated and speaking fast with his voice quite raised, she felt that he was more angry than upset. The Tribunal notes that in the claimant's witness statement he does not describe his feelings during or after this meeting. This is in contrast to his description of how he felt after the meeting on 20 March 2024 (complaint 7) where he described feeling deeply distressed, humiliated, undermined and anxious.

203. On 27 June 2024, the claimant emailed Christina Kennedy and Harriet Saunders about what had happened in the one-to-one meeting (page 360). In his email, the claimant described that Caroline Way's reaction to him in saying he had called her racist underscored the difficulty of discussing the issues with her and increased tension it caused, he refers to the adverse effects of his well-being and the impact on him worsening.

204. Harriet Saunders replied to arrange a meeting with the Claimant and Christina Kennedy to discuss how the team could work together in a healthy manner (pages 360-361).

205. In an email of 2 July 2024, Christina Kennedy stated that people should "be comfortable being uncomfortable during difficult conversations which are necessary to help the organisation to be better and to progress" (page 365). The Tribunal finds that this is a reasonable stance from the respondent's Chief Executive Officer and that, following the Varsity article, and concerns raised by the claimant including in his six-month review meeting, Caroline Way should have taken steps to avoid becoming heated in the meeting with the claimant.

206. The Tribunal finds that both Caroline Way and the claimant became emotionally heightened in the meeting and that this contributed to the discussion becoming more heated and more upsetting for both of them. The Tribunal acknowledges that Caroline Way found the meeting hard and upsetting. However, the Tribunal finds that Caroline Way's contribution to this in becoming heated, suggesting that the claimant had called her racist whilst heated, and in her position of line manager of the claimant created an environment that was hostile and intimidating for the claimant.

Complaint 19: Christina Kennedy interrogated the claimant about the discrimination issues he had raised and in an intimidating tone reminded him that he was still on probation and that it had been extended for three months; and
Complaint 20: Christina Kennedy provided inaccurate notes of the 28 June 2024 meeting in a tone and style that presented the claimant as the problem and troublemaker.

207. On 28 June 2024, the claimant attended a meeting with Christina Kennedy and Harriet Saunders.
208. The notes of this meeting are at pages 371-374. The claimant stated when questioned that the notes are accurate in documenting the themes of conversation that took place, but that the tone and choice of words were designed to present him as the person making the problem and a trouble maker. The Tribunal has also had regard to the claimant's email following the meeting at pages 362-363, and Christina Kennedy's reply to the claimant's email at pages 363-366, and the claimant's email at pages 369-370.
209. The Tribunal believes the following to be an accurate reflection of what happened in the meeting:
- a. At the start of the meeting, the claimant said that his meetings with Caroline Way always last a fixed amount of time and if they have covered everything they need to talk about, Caroline Way will fill the time. He stated something to the effect that in the meeting on 27 June 2026 Caroline Way had brought up things they didn't need to talk about and gave the example of his use of Slack.
 - b. The claimant described that he had told Caroline Way that the way he is questioned about Slack is a discriminatory practice. Christina Kennedy asked the claimant whether Caroline Way had asked him about the hours he was logging and the claimant confirmed that Caroline Way had said that she had noticed he was logging long hours. He explained that he did not think Slack should be used for this. Christina Kennedy explained that Caroline Way had a duty of care to have conversations about this and said that she (Christina Kennedy) had had conversations with her own team and her line manager had had conversations with her about hours worked. The claimant accepted this concept.
 - c. The claimant said that the use of Slack to check on staff working long hours should not be discriminatory. The claimant said that he thought Christina Kennedy was taking Caroline Way's side and that he would prefer not to talk to her about it. Christina Kennedy assured the claimant that she wanted to hear from both Caroline Way and him about what had happened.
 - d. The claimant said that Slack could be used as a management tool if it is used in a non-discriminatory way. The notes record that the claimant said "it is pointless having this conversation and you can have that view as a CEO but it doesn't change the way I feel about it". The claimant disputed this. The Tribunal finds that the claimant said that he would prefer not to talk about it and that it wouldn't change how he felt. The Tribunal finds that the way in which this statement is recorded sets a stronger and more disrespectful tone than may have been used. The Tribunal notes that Harriet Saunders was inexperienced in her role, often failed to take notes of meetings, and that this was not a verbatim account. The Tribunal do not attribute any intention to Harriet Saunders in the way she recorded this part of the notes.
 - e. The claimant said that he was using Slack in the same way as white colleagues. The notes record that the claimant said "white people". The Tribunal finds that the claimant said either "white colleagues" or "a white

person”, and not “white people” which would be a broader sentiment. As above, the Tribunal do not attribute any intention to Harriet Saunders in the way she recorded this part of the notes.

- f. The claimant asked Christina Kennedy if her line manager asked her about her wellbeing when she is working until 11pm. Christina Kennedy explained that she has an arrangement for flexible hours around childcare and that the claimant cannot assume to know what individual’s work patterns are.
- g. The claimant said that Slack is being used to ask him about productivity and to check his movements “like a plantation worker” and the only time his wellbeing is asked about is when there is a conversation about his productivity. He understood that monitoring needed to happen, but it should be done in a non-discriminatory way. Christina Kennedy said that she was asking questions out of a genuine concern about his wellbeing.
- h. Christina Kennedy said that she wanted to hear two sides of the story. She had heard from Caroline Way and wanted to hear from the claimant.
- i. Christina Kennedy said that the claimant was still on probation and mentioned that his probation had been extended. In evidence, the claimant confirmed that Christina Kennedy also referred to Caroline Way being on probation within this point of discussion although it is not noted. The Tribunal finds that this was said. Christina Kennedy said that the claimant’s probation was extended because they could see the potential in him as an employee, but that they needed to find a way for the claimant and Caroline Way to work together while his grievance was ongoing so that the claimant could meet his objectives. The Tribunal finds that this was an appropriate and reasonable statement for Christina Kennedy to make.
- j. The claimant said that he understood that monitoring needed to take place but said it should be done in a non-discriminatory way. He also said that, if he was making people uncomfortable just by being at work then that was not his problem and that he would continue to work with his colleagues in the same way as he had been doing.
- k. Christina Kennedy repeated that she wanted to find a way to support the claimant to achieve his objectives. She described that conversations about discrimination may be uncomfortable and difficult for some people, but it was necessary to work through those conversations and issues raised for the organisation to improve. The claimant repeated the accusation at complaint 15 that Simona Obeng had taken concerns to Caroline Way instead of coming to him “because of” him raising discrimination concerns and that this was “victimisation and discriminatory”. The claimant said that everyone, including the managers, “we all need to tread carefully”.
- l. The claimant said that there is a link between the issues he has raised about discrimination and his ability to do the tasks. He said that no one was telling him what was being done about the issues he had raised. Christina Kennedy agreed that there was an intrinsic link between the claimant’s ability to undertake his role and the issues he had raised. Christina Kennedy described that the trustees had not got in touch with management about the grievance investigation. She said her main concern was the claimant’s wellbeing and asked how she could address

that. The claimant responded that he would get his case notes done the next week.

- m. Christina Kennedy offered the claimant the option of speaking to Gabbi Foreman, which the claimant declined. She ended the meeting saying “I want to reiterate what I said earlier that I am glad you have spoken to the trustees. I genuinely want grievances to be investigated so we can improve as an organisation. It’s important that we have these difficult conversations. If there is anything else in the meantime or if anything happens that does not sit right please do reach out.

210. The claimant described that he felt that he was being interrogated because he was being asked about things that he had already explained in email and he was being prompted to talk about things that he didn’t want to. However, he agreed that it was reasonable for Christina Kennedy to meet with him and ask him what had happened from his perspective. The Tribunal finds that the conversation covered some difficult areas, but it was not an interrogation.

211. The claimant was asked why he felt that Christina Kennedy’s reference to probation was intimidating. It was put to the claimant that, on his evidence, Christina Kennedy had also referred to Caroline Way being on probation. He explained that she reminded him that his probation had been extended. He confirmed that if she had simply referred to his probation, without mentioning the extension, this would not have been a problem.

212. In evidence, Harriet Saunders described that the meeting was conducted professionally and that there was no aggressive tone. She could not recall any raised voices or insults being exchanged. However, she confirmed that the claimant was upset and not happy in the meeting. Harriet Saunders confirmed that the claimant thought Christina Kennedy was taking Caroline Way’s side and stated that she did not believe Christina Kennedy was taking sides. Harriet Saunders confirmed that there were references to the claimant’s probation but did not agree that these were made in an intimidating tone.

213. The Tribunal finds that the context in which Christina Kennedy referred to the claimant’s probation extension was to say that they saw potential in him and that they needed to find a way for the claimant and Caroline Way to work productively together. The Tribunal finds that this was not said in an intimidating tone.

214. On 28 June 2024, the claimant emailed Christina Kennedy to summarise their discussion. The claimant stated that he felt that he was being portrayed as the problem for making colleague uncomfortable after speaking about his experiences (pages 362-363). The claimant sent a further email to both Christina Kennedy and Harriet Saunders in which he stated that referring to his probationary period was intimidating and inappropriate and may deter him from raising legitimate concerns that negatively affect his ability to perform his duties (pages 369-370). The respondent concedes that these two emails are each a protected act.

215. On 2 July 2024, Christina Kennedy responded to the claimant's email (pages 363-366). She advised that she was disappointed that he felt as though he was being portrayed as the problem as she had not said he was creating an issue. She stated that the purpose of the meeting was to work out a way for the claimant and Caroline Way to work productively together to meet his objectives for his probation after they had had a heated conversation on 27 June 2024. She denied that she leveraged his being on probation in any way and stated that she had said that the organisation had a responsibility to ensure he could work towards meeting his objectives by working with the team in a productive manner while the grievance was ongoing.

Chronology

216. On 1 July 2024, the claimant wrote to Gabbi Foreman, Oli Gray, Caroline Way, Simona Obeng and Simon To, informing them that he had decided to file a claim with the Employment Tribunal (page 375).
217. On 4 July 2024, the claimant attended a one-to-one meeting with Caroline Way. He explained that he had been prioritising new cases and uploaded notes to Case Manager because these cases were time sensitive. He explained that he would return to the older cases when the busy period had passed. Caroline Way confirmed that this objective still needed to be met. Caroline Way also asked the claimant why he had not yet blocked time in his diary for responding to enquiries and asked him to do this. (Pages 484-485). The claimant emailed Caroline Way on receipt of the notes of the one-to-one remind her that he had been using diary entries for drop-in sessions and responding to queries (page 436).
218. On 8 July 2024, Simon To met the claimant as part of the grievance process. The claimant set out detailed complaints of discrimination and victimisation.
219. Harriet Saunders stated (paragraph 21 of her witness statement) that Christina Kennedy had discussed concerns about the claimant's probationary period and extension, and that he was not demonstrating sufficient improvement. In evidence, Harriet Saunders advised that these discussions would have taken place in one-to-one meetings with Christina Kennedy who was her line manager. Harriet Saunders did not give any specific examples of the points discussed. The Tribunal were not taken to any notes of these discussions.

Complaint 21: Caroline Way sent the claimant an email expressing concern about a gap in contact between him and a student he was supporting.

220. On 10 July 2024, Caroline Way raised concerns in an email to the claimant regarding one of the claimant's student cases and a gap in contact between the claimant and the student (TD) (page 441). In evidence, the claimant agreed that the last entry on Case Manager was from 9 May 2024 and that it therefore appeared there had been no contact with the student for two months. The claimant also agreed that the question was framed in an open way, rather than as a criticism or admonishment.
221. The claimant responded to the email the same day (page 440). He described that he had not uploaded a draft email he had sent to the student for approval and so there had been contact, although it was not on Case Manager. The Claimant also described that the student had previously been allocated to Simona Obeng and then Caroline Way, but the student had fallen out with both of them and the student had accused Caroline Way of racism. Caroline Way responded by email (page 439) to

thank the claimant for the clarification and said that, as the information was not on Case Manager, she did not know what the situation was.

222. In evidence, the claimant explained that his complaint was that Caroline Way already knew about this case. However, the claimant was unclear as to whether Caroline Way knew that he had sent a draft email to the student for approval and agreed that he had failed to upload this document to Case Manager or update the records in Case Manager. The claimant described that the case had been discussed in a meeting with Caroline Way shortly before 10 July 2024 but could not direct the Tribunal to a reference to this in the bundle. The Tribunal could find no reference to this in the notes of one-to-one meetings between the claimant and Caroline Way.

223. The claimant withdrew this complaint during the hearing and confirmed this again in his submissions.

Chronology

224. On 10 July 2024, Caroline Way informed the claimant that Gabbi Foreman would conduct his next one-to-one meeting while Caroline Way was on leave and would also join a meeting with them both on 12 July 2024 to review his progress against his Self-Improvement Plan (page 439). The claimant responded that the way in which the six-month review was conducted, the Self-Improvement Plan and the context around it was part of his grievance. He suggested that he could sit through the discussion on 12 July 2024 without commenting or they could wait for Simon To to reach a conclusion on his grievance (page 439).

225. On 11 July 2024, Gabbi Foreman informed the claimant that his probation review could not be paused and set out that the discussion on 12 July 2024 would focus on the objectives from the Self-Improvement Plan (page 444), namely: timely and accurate recording of case notes on Case Manager; attention to detail in case notes; and picking up enquiries from the Advice inbox.

226. The claimant responded to Gabbi Foreman to express surprise that attention to detail was a concern because, save for in two cases, no issues had been raised with him and in those two cases he had been demonstrated that the lack of detail was down to someone else's failure. He explained that Caroline Way had told him he was too detailed and Simona Obeng had told him that she is sometimes detailed and sometimes brief in her work. The claimant also explained his understanding that Fanni Pirik would assign enquiries from the Advice inbox. (Page 443).

227. On 12 July 2024 the claimant met with Caroline Way and Gabbi Foreman (pages 483-484). The discussion aligned with the comments the claimant had made in his email the day before (above).

228. On or around 15 July 2024, Simon To instructed the external HR consultancy HR Dept to investigate the claimant's grievance. Karen Mullally was appointed investigator.

229. On 19 July 2024, the claimant attended a one-to-one meeting with Gabbi Foreman (pages 482-483). The claimant confirmed that he had updated all cases and explained any discrepancies. His priorities for the week were to focus on new cases, clear out old cases, and follow up on old cases and then looking to get them closed.

Complaint 22: Caroline Way introduced independent file reviews then unexpectedly did an independent file review on one of the claimant's cases before the next Reflective Practice meeting and brought it up at the next 1:1 meeting as a point of discussion.

230. On 26 July 2024, the claimant attended a one-to-one meeting with Caroline Way (pages 481-482). The notes record that there was discussion about the importance of updating records on Case Manager within 24 hours (Page 481). Caroline Way informed the claimant that she wanted to get Independent File Reviews back into Advisors' diaries. The notes record that she said "She is aware that there needs to be further discussion as a team about giving feedback ahead of the next meeting." The claimant's priorities for the week were to close old and complete cases on his case record and update the Cases Review spreadsheet.
231. The claimant described that, on 1 August 2024, Caroline Way sent a message to staff explaining that she would re-introduce Independent File Reviews for the team and said she would bring it up in the next Reflective Practice Meeting. The Tribunal was not taken to this message. However, it is noted that the content is consistent with Caroline Way's email to the claimant of 10 May 2024 in which she acknowledged that the claimant had raised concerns about Independent File Reviews (in connection with Simona Obeng's feedback in an Independent File Review she conducted, complaint 8) and stated that ahead of the next Independent File Review session they would use Reflective Practice to confirm how to write and use an Independent File Review (page 310). The Tribunal finds that the claimant had a reasonable expectation that there would not be a further file review until there had been discussion about it in a Reflective Practice Meeting.
232. On 2 August 2024, the claimant attended a one-to-one meeting with Caroline Way. Again, the claimant's action point was to close old cases (pages 480-481). In the one-to-one meeting, Caroline Way went through an Independent File Review on one of the claimant's cases (page 480-481). The claimant described that he felt shocked by this. In evidence, the claimant agreed that the Independent File Reviews were intended to be a supportive tool, but that he had raised concerns about how they had been used before and had understood that the Independent File Reviews would not be reintroduced until the team had discussed how they would give feedback within an Independent File Review. The Tribunal finds that the claimant had a reasonable expectation that there would not be a further file review until there had been discussion about it in a Reflective Practice Meeting.
233. The claimant described that he felt that Caroline Way could have given him the same feedback without it being part of an Independent File Review and explained that the difference is that feedback is informal but an Independent File Review is uploaded to Case Manager and forms a permanent record that other Advisors can access. The claimant did not raise any concerns or disagreement with the content of the Independent File Review that Caroline Way conducted, and had agreed that the content of earlier Independent File Review that Caroline Way conducted were reasonable (complaint 8).
234. Caroline Way explained that she had done this Independent File Review when she had because she had time to and because she had noted that the last email on that particular case had gone to the general inbox and she wanted to make sure that the claimant was aware of it. Caroline Way explained that the claimant had more Independent File Reviews than other, more experienced members of staff, because he was newer to the organisation and in probation. She described that this was not a punitive measure but reflected the level of support and monitoring appropriate for someone developing in role and on probation.

235. It was put to Caroline Way that she had an outstanding Independent File Review to do for Simona Obeng from May 2024 (complaint 7) and should have done this before doing another for the claimant. Caroline Way explained that a lot of time had passed and she fully intended to pick up Independent File Reviews with everyone. She also explained that scrutinising the claimant's case records was an important part of her helping him to pass his probation and that she was concerned that the claimant's work was quite behind where it should be.
236. The Tribunal finds that Caroline Way conducted the Independent File Review because she had time to do so and that she prioritised the claimant's file because he was on probation.

Chronology

237. Following this meeting, the claimant sent an email to Caroline Way, Gabbi Foreman, Karen Mullally and Simon To setting out his concerns that the Independent File Review process was unfair. He also stated that he was receiving treatment from the NHS and another organisation for the impact that the discrimination has had on his mental health.
238. On 5 August 2024, Gabbi Foreman had a one-to-one meeting with Caroline Way in which Caroline Way described the claimant as "difficult to line-manage", that he doesn't engage with one-to-one meetings as he says things are fine but then later brings up issues when in a review meeting or being given feedback, and he is not completing the work he needs to do (page 503). Gabbi Foreman asked Caroline Way how she felt about a meeting on Thursday, which the Tribunal believe may have related to the claimant's probationary review meeting. Caroline Way responded that she would like it "done with" and described that it was a difficult process to be part of and felt like it had been going on a long time. In witness evidence, Caroline Way described that she started every one-to-one by asking the claimant if he had any concerns to raise and that he always said he was fine, he never indicated that he was upset or uncomfortable but she would then receive a long email from him outlining that his issues rather than discuss them with her in the meeting.
239. On 5 August 2024, Gabbi Foreman instructed the claimant to go home and said that his absence would be treated as sick leave (page 504). The claimant replied and did not query this decision (page 504-505). On 9 August 2024, Christina Kennedy offered the claimant to remain off work while the grievance was still ongoing (page 513). In evidence, the claimant agreed that he had been off sick during this time.
240. On 9 August 2024, the claimant's Employment Tribunal claim was issued. The respondent concedes that this was a protect act.
241. On 15 August 2024, the Grievance Investigation Summary Report was prepared by Karen Mullally. The report concluded that there was no clear evidence that he had been treated less favourably because of his race or that he had suffered a detriment because of raising complaints of discrimination. It concluded that the claimant was subject to closer monitoring because of his probationary status, rather than race (page 542-550).
242. On 21 August 2024, Simon To issued the grievance outcome. The grievance was not upheld. Simon To concluded that the treatment complained of reflected ordinary probationary management arrangements and that there was no evidence of race discrimination or victimisation (pages 551-552).

Complaint 23: the claimant's employment was terminated during a probationary review meeting by Caroline Way and Harriet Saunders.

243. In evidence, the claimant also described that his grievance had taken up a lot of his time as he was required to attend several meetings in connection with it. In a one-to-one meeting on 20 June 2024, the claimant explained that due to these interruptions to his work, it was not appropriate to expect him to meet his objectives by August 2024 (page 486). Caroline Way emailed the claimant with a summary of their discussion and stated that she felt achieving timely and accurate case notes by August 2024 was appropriate and realistic (pages 352-353). In the meeting on 28 June 2024, Christina Kennedy acknowledged that there was an intrinsic link between the claimant's grievance and the impact it would have on his ability to carry out his role (page 374). She also stated that she was seeking to support the claimant to meet his probationary objectives while he was continuing to work and explained that this was why there were questions about the hours he was working (page 372). Caroline Way explained that the claimant had told her that he was well enough to work and so she needed to see him meet his objectives while he was at work. The Tribunal finds that, as the claimant was continuing to attend work, it was reasonable for the respondent to require him to fulfil his duties and work towards meeting the objectives for his probation. In evidence, the claimant accepted that, by 30 August 2024 some of his files were still not up to date. When the claimant was asked whether he had not updated records on Case Manager due to a lack of time, he stated that that was not the reason. The Tribunal therefore finds that the claimant's grievance did not prevent him from meeting the objectives for his probation.

244. In her witness statement, Caroline Way described that she felt the claimant's focus had shifted from achieving the required competencies to proving that he was being discriminated against (paragraph 14 and 16) and that the claimant had capacity to scrutinise other people's work but was not applying the same diligence to his own responsibilities (paragraph 41). In evidence, Caroline Way described that at the six-month review she believed the claimant could meet the targets set for him but the claimant did not appear to take any steps towards completing his objectives and instead focused on why he believed the probation extension was unjust. Caroline Way described that the claimant had produced records of colleagues' cases with minor flaws and that it would take a long time and high level of scrutiny to find these (complaint 14). She felt that the claimant was more determined to do this than to evidence that he was working to the required level set out in his job description and Self Improvement Plan. She confirmed that her assessment of whether the claimant should pass his probation was based on his work, which was not at the required level. She described that the respondent had given the claimant nine months to get to the necessary standard and he had moved further away from it rather than closer.

245. The notes of one-to-one meetings leading up to the decision to dismiss the claimant record that Case Manager was 95% up to date at 19 July 2024 (page 483), and that the claimant had almost finished updating outstanding case records and had only two or three left to do at 26 July 2024 (pages 481-482), and at 2 August 2024 was in a similar place (page 480). Caroline Way was questioned about the 95% figure and explained that this was recorded in a one-to-one meeting with Gabbi Foreman where she was not present, she stated that it did not match her own contemporaneous record of the claimant's progress and suggested that the claimant had given the figure to Gabbi Foreman. When questioned about Caroline Way's comment to Gabbi Foreman on 5 August 2024 that the claimant is not completing the work he needs to do (page 503), the claimant confirmed that some of his cases were still not up to date at that point. In evidence, Caroline Way said that the claimant was going backwards with

regards to updating Case Manager records. The Tribunal finds that the figures stated in one-to-one meetings were given by the claimant and not Gabbi Foreman.

246. The spreadsheet at pages 845 to 851 is in dispute. The respondent states that it was disclosed in the claimant's subject access request, but the claimant cannot recall whether it was received. The respondent states that it was created by Caroline Way for her own purposes during the claimant's employment to track the progress of his case, but not shared with the claimant during his employment. The claimant states that the document doesn't include case identifying information and that he is not able to agree that any of the case references are to cases he worked on. The spreadsheet records three cases where there were delays in responding to students (page 846 and 851) and two cases where Case Manager was not updated by almost two months, almost three months respectively (pages 847-848). The Tribunal has not attached weight to this document. However, the Tribunal finds that in evidence the claimant accepted that by the date of his dismissal, some of his cases were still not up to date on Case Manager.
247. On 30 August 2024, the claimant attended the extended probation review meeting. The respondent disclosed a draft script prepared for the meeting (Pages 853 to 854). The notes of the meeting are at pages 575-579. The draft script was prepared by Caroline Way. It includes examples of case files for discussion. These examples are not included in the notes of the meeting, which record that the claimant was asked if he wanted to go through the examples and that the conversation then moved on without him requesting this.
248. At the start of the meeting, the claimant explained that he had raised grievance about Caroline Way and did not feel that the process had been fair. Caroline Way responded that the grievance was a separate matter and that her assessment was of the claimant's performance (page 576). Gabbi Foreman confirmed that she could not recollect a discussion about whether it would be a conflict of interest for Caroline Way to make this decision. However, she felt that Caroline Way was best placed to assess the claimant's performance and described that she (Gabbi Foreman) scrutinised the process. The Tribunal finds that Caroline Way had a conflict of interests and that it would have been advisable for another manager or external person to conduct this meeting.
249. Caroline Way informed the claimant that he had failed probation. She confirmed that she had discussed it with her line manager, but the decision was hers (page 579). Oli Gray described that he attended the meeting as note-taker and left before the end, and that he was not involved in making the decision; the claimant accepted this evidence. The claimant's employment with the respondent was therefore terminated.
250. The Tribunal finds that Caroline Way decided to dismiss the claimant because he was not updating the Case Manager, despite this being part of his role since the start of his employment and expressly set as an objective on which his probation would be assessed in the six-month review meeting.

Relevant Law

Direct Discrimination

251. Section 13(1) Equality Act 2010 provides that:

A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

252. There must be less favourable treatment. ***Burrett v West Birmingham Health Authority 1994 IRLR 7 EAT***, held that the claimant has to show less favourable treatment has taken place, “the fact that the complainant considers that she or he is being treated less favourably or is being demeaned does not of itself establish that there is less favourable treatment. That is for the Industrial Tribunal to decide.”

253. When identifying the comparator for less favourable treatment, section 23(1) Equality Act 2010 provides that, save for the protected characteristic:

There must be no material difference between the circumstances relating to each case.

254. In ***Shamoon v Chief Constable of the Royal Ulster Constabulary [2003] UKHL 11***, Lord Scott explained that “the comparator required for the purpose of the statutory definition of discrimination must be a comparator in the same position in all material respects as the victim save only that he, or she, is not a member of the protected class”.

255. The circumstances of the comparator do not need to be precisely the same, provided that they are close enough to enable an effective comparison, ***Hewage v Grampian Health Board [2012] UKSC 37***.

256. In ***Liebenberg v DS Smith Packaging Ltd and ors ET Case No.2200786/19***, the Tribunal found that the claimant’s named comparators were in materially different circumstances because they worked in completely different roles to her, had worked for the respondent for considerably longer and to a higher standard, and had never been the subject of performance concerns.

257. Where there is no actual comparator, the Tribunal may use a hypothetical comparator to determine whether the claimant was treated less favourably than another person would have been treated. However, ***Shamoon v Chief Constable of the Royal Ulster Constabulary [2003] UKHL 11*** said that a Tribunal does not err in law by failing to construct a hypothetical comparator: “employment tribunals may sometimes be able to avoid arid and confusing disputes about the identification of the appropriate comparator by concentrating primarily on why the claimant was treated as she was. Was it on the proscribed ground which is the foundation of the application? That will call for an examination of all the facts of the case. Or was it for some other reason? If the latter, the application fails. If the former, there will be usually be no difficulty in deciding whether the treatment, afforded to the claimant on the proscribed ground, was less favourable than was or would have been afforded to others”.

258. The less favourable treatment must be because of the protected characteristic. However, the protected characteristic does not have to be the sole or principal reason, it is enough for it to have been at least a significant influence ***Pnaiser v NHS England and another [2016] IRLR 170 EAT***. The

focus should be on what is the reason for the treatment in the mind of the alleged discriminator, ***Pnaiser***.

259. It is not sufficient for there to be different treatment, the treatment complained of must be less favourable treatment and amount to a detriment. For example, an applicant who is not appointed to a post has not suffered less favourable treatment if they had no genuine interest in the post, ***Keane v Investigo and ors EAT 0389/09***.

Harassment

260. Section 26(1) Equality Act 2010 provides that:

A person (A) harasses another (B) if:

- a. A engaged in unwanted conduct related to a relevant protected characteristic, and
- b. the conduct has the purpose or effect of –
 - i. violating B's dignity, or
 - ii. creating an intimidating hostile, degrading, humiliating or offensive environment for B.

261. The Tribunal will consider whether the claimant genuinely perceived the conduct has having that effect and, in all the circumstances, was it reasonable for the conduct to have that effect on the claimant. ***Richmond Pharmacology v Dhaliwal [2009] IRLR 336 EAT*** held that “We accept that not every racially slanted adverse comment or conduct may constitute the violation of a person's dignity. Dignity is not necessarily violated by things said or done which are trivial or transitory, particularly if it should have been clear that any offence was unintended. While it is very important that employers, and tribunals, are sensitive to the hurt that can be caused by racially offensive comments or conduct (or indeed comments or conduct on other grounds covered by the cognate legislation to which we have referred), it is also important not to encourage a culture of hypersensitivity or the imposition of legal liability in respect of every unfortunate phrase”.

Victimisation

262. In this claim, the respondent has conceded that the claimant has done protected acts.

263. Section 27(1) Equality Act 2010 provides that:

A person (A) victimises another person (B) if A subjects B to a detriment because –

- a. B does a protected act, or
- b. A believes that B has done, or may do, a protected act.

264. A detriment may be anything that the claimant reasonably understands has disadvantaged them. This is a subjective test and has a relatively low threshold. However, an unjustified sense of grievance will not be sufficient.

265. The detriment must be because of the protected act. However, the protected act does not have to be the sole or principal reason, it is enough for it to have been at least a significant influence and the focus should be on what is the reason for the treatment in the mind of the alleged discriminator, **Pnaiser**.

Burden of Proof

266. Section 136 Equality Act 2010 provides that:

(2) If there are facts from which the Tribunal could decide, in the absence of another explanation, that a person (A) contravened the provision concerned, then the court must hold that the contravention occurred.

(3) But subsection (2) does not apply if A shows that A did not contravene the provision.

267. In **Royal Mail Group Ltd v Efofi [2021] UKSC 33** the Supreme Court confirmed that there is a shifting burden of proof. The evidence from the claimant must be sufficient to establish facts from which the Tribunal could decide that there has been discrimination, harassment and/ or victimisation. If they do, the burden shifts to the respondent to show that there has not been discrimination, harassment and/ or victimisation.

268. When considering whether there are primary facts from which the Tribunal could decide, in the absence of another explanation, that there has been discrimination, harassment or victimisation, primary facts will be sufficient to shift the burden if a reasonable Tribunal could properly conclude on the balance of probabilities that there was discrimination, **Madarassy v Nomura International Plc [2007] EWCA Civ 33**. This will usually require there to be something more than a difference in treatment and a difference in protected characteristic, **Madarassy**. The Tribunal is not obliged to infer from the fact that an employer acted unreasonably towards the claimant that this is because of the claimant's protected characteristic **Glasgow City Council v Zafar [1998] IRLR 36, HL**.

269. If there are primary facts from which the Tribunal could decide, in the absence of another explanation, that there has been discrimination, harassment or victimisation, the burden shifts to the respondent to show that, on the balance of probabilities the less favourable treatment, unwanted conduct or detriment was in no sense whatsoever because of the protected characteristic **Igen Ltd v Wong [2005] EWCA Civ 142**. The Tribunal should expect cogent evidence for this burden to be discharged.

Conclusions

Direct Race Discrimination

270. The claimant is Black African. He compares his treatment to the treatment of white colleagues working as Senior Advisors and Advisors.
271. Did the respondent do the following things:

	POC para.	Date	Event/allegation	Perpetrator/s	Comparators
1	8-11	23/1/2024	The claimant's case recording practices were scrutinised unfairly at a Reflective Practice Meeting.	Oli Gray, Rachel Wilson, Simona Obeng.	Rachel Wilson, Simona Obeng.
3	16	1/2/2024	The claimant was scrutinised and probed about how he entered his hours on Slack.	Oli Gray	Rachel Wilson
4	33-39	6-7/2/2024	Simona Obeng stated the claimant should not have phoned Cambridge Trust to make a general enquiry after a home student had approached the Advice Service seeking information, and that by doing so he had breached the Advice Service's confidentiality policy; Oli Gray supported Simona Obeng's position on the matter.	Simona Obeng, Oli Gray.	Simona Obeng (on 24 April 2024 SO discussed general case information in a meeting with a third party and was not told she had breached the Advice Service's confidentiality policy).
5	40	7/2/2024	The claimant was questioned about his use of Slack.	Oli Gray	Rachel Wilson
6	40	7/2/2024	Training on the case management system that the claimant requested and was promised on 7/2/2024 in preparation for the six-month probationary review was never provided.	Oli Gray	Hypothetical
7	50, 53	20/3/2024, 25/03/2024	Caroline Way ambushed the claimant in a meeting on 20/3/2024 and accused the claimant of dishonesty, then she trivialised the incident as "confusion" in her email of 25/3/2024.	Caroline Way	Simona Obeng
8	60	3 May – August	By August Caroline Way had reviewed only one of Simona Obeng's cases and 2 of the claimant's.	Caroline Way	Simona Obeng
11	63	May	Caroline Way did nothing to support the claimant with his workload during Simona Obeng's 2 weeks' annual leave and on 14 May she passed an appointment to the claimant at 12 minutes' notice which she had missed.	Caroline Way	Caroline Way

272. Was that less favourable treatment? Did less favourable treatment amount to a detriment?

273. If that was less favourable treatment, was it because of the claimant's race?

274. Complaint 1:

- a. The Tribunal has found that Oli Gray, Rachel Wilson and Simona Obeng did scrutinise the claimant's cases in the Reflective Practice meeting on 23 January 2024 and that this may have been unfair because it did not align with the intended purposes of a Reflective Practice meeting and because the claimant was criticised for omitting case summaries, which Rachel Wilson had also done on one of her files.
- b. The Tribunal concludes that the claimant's actual comparators of Rachel Wilson and Simona Obeng were not in the same position in all material respects to the claimant because they had worked for the respondent for considerably longer and were not within their probationary period. The Tribunal concludes that the correct comparator is a hypothetical comparator of a white employee working in the role of Student Advisor and in their probationary period.
- c. By the claimant's own admission, it is entirely possible that Oli Gray, Rachel Wilson and Simona Obeng would have treated a hypothetical comparator in the same way as they treated him. Accordingly, the Tribunal concludes that there was no less favourable treatment of the claimant.
- d. Further, if there was less favourable treatment, the Tribunal concludes that such treatment was not because of the claimant's race. It was because the claimant was in his probationary period.
- e. This complaint of direct race discrimination therefore fails.

275. Complaint 3:

- a. The Tribunal has found that Oli Gray asked the claimant about his hours logged on Slack. However, the Tribunal has found that these were general questions and that the claimant was not scrutinised about his hours.
- b. The Tribunal has also found that Oli Gray would have asked other colleagues, including the claimant's comparator, Rachel Wilson, similar questions.
- c. Accordingly, the Tribunal concludes that there was no less favourable treatment of the claimant.
- d. Further, if there was less favourable treatment, the Tribunal concludes that such treatment was not because of the claimant's race. It was because of a wish to understand the claimant's working pattern and whether he was able to manage his workload within his working hours, out of concern for his welfare.
- e. This complaint of direct race discrimination therefore fails.

276. Complaint 4:

- a. The Tribunal has found that Simona Obeng stated on 1 February 2024 that the claimant should not have phoned the Cambridge Trust

to make a general enquiry about a student and that this had breached the respondent's Confidentiality Policy. The Tribunal has also found that Oli Gray made a similar statement to the claimant on 7 February 2024.

- b. The claimant's comparator is Simona Obeng due to her participation in a meeting with OSCCA on 24 April 2024. The Tribunal has found that the claimant's actions in contacting the Cambridge Trust and Simona Obeng's actions in participating in a meeting with OSCCA are not comparable. The Tribunal therefore concludes that the claimant's comparator for this complaint is not in the same position as the claimant in all material respects.
- c. The Tribunal has found that Simona Obeng and Oli Gray would have made acted in the same way towards a white Advisor who had made a similar general enquiry to an external organisation as the claimant. Accordingly, the Tribunal concludes that there was no less favourable treatment of the claimant.
- d. Further, if there was less favourable treatment, the Tribunal concludes that such treatment was not because of the claimant's race. It was because Simona Obeng and Oli Gray believed the claimant's actions were in breach of the respondent's confidentiality policy.
- e. This complaint of direct race discrimination therefore fails.

277. Complaint 5:

- a. The Tribunal has found that Oli Gray asked the claimant about his hours logged on Slack. However, the Tribunal has found that these were general questions and that the claimant was not scrutinised about his hours.
- b. The Tribunal has also found that Oli Gray would have asked other colleagues, including the claimant's comparator, Rachel Wilson, similar questions.
- c. Accordingly, the Tribunal concludes that there was no less favourable treatment of the claimant.
- d. Further, if there was less favourable treatment, the Tribunal concludes that such treatment was not because of the claimant's race. It was because of a wish to understand the claimant's working pattern and whether he was able to manage his workload within his working hours, out of concern for his welfare.
- e. This complaint of direct race discrimination therefore fails.

278. Complaint 6:

- a. The Tribunal has found that neither Oli Gray nor Caroline Way provided the claimant with additional Case Manager training requested in the three-month review meeting in preparation for the six-month review

meeting. The Tribunal has found that this is because (i) Oli Gray was busy and (ii) Caroline Way was not aware of the claimant's request.

- b. The Tribunal concludes that the claimant's hypothetical comparator must be a white Student Advisor who is preparing for their six-month probationary review meeting. The Tribunal concludes that this hypothetical comparator also would not have been offered additional training if their line manager was busy or unaware of their request.
- c. The Tribunal has made additional findings about the claimant's request for "formal" training and the training provision offered by Caroline Way after the six-month probationary meeting. The Tribunal has found that the claimant's request for "formal" training was first made on 8 May 2024 and was not fully particularised. The Tribunal has found that Caroline Way repeatedly offered to train the claimant herself and believed that the best way to provide training was through observation, practice and sitting with her to learn from her expertise. The Tribunal has found that the claimant rejected Caroline Way's offer of training because he wanted a more formal arrangement, but this was not fully understood or explored by Caroline Way. The Tribunal has found that no Student Advisors received formal training. The Tribunal has found that the failure to provide formal training to the claimant was due to a combination of a lack of understanding and exploration of what he was asking for and Caroline Way's belief that the best way to provide training was through observation, practice and sitting with her to learn from her expertise.
- d. Taking into account all of the above, the Tribunal concludes that a white Advisor preparing for their six-month probationary period would not have been offered additional training (whether formal or informal) and nor would they have received an offer of formal training.
- e. Accordingly, the claimant was not treated less favourably than a hypothetical comparator would have been treated.
- f. Further, if there was less favourable treatment, the Tribunal concludes that such treatment was not because of the claimant's race. It was because (i) before the six-month review Oli Gray was busy and Caroline Way was unaware of the request for additional training, and (ii) after the six-month review Caroline Way offered training in line with what she believed to be the best way to learn the Case Manager system.
- g. This complaint of direct race discrimination therefore fails.

279. Complaint 7:

- a. The Tribunal has found that Caroline Way did not ambush the claimant in the meeting on 20 March 2024 by asking for Harriet Saunders to join the meeting.
- b. The Tribunal found that Caroline Way approached the meeting with suspicion about the claimant's conduct and used a form of wording from

which it could reasonably be inferred that she was accusing the claimant of dishonesty. The Tribunal has found that this has a significant impact on the claimant. The Tribunal has found that Caroline Way did not approach her meeting with Simona Obeng in the same way.

- c. The claimant's comparator is Simona Obeng. The Tribunal finds that this is a fair comparator for this complaint as both were involved in the misunderstanding that gave rise to the meeting on 20 March 2024. The Tribunal finds that the claimant was treated less favourably to Simona Obeng because Caroline Way did not approach Simona Obeng with suspicion or use a form of words that could infer that she was accusing Simona Obeng of dishonesty.
- d. The Tribunal has found that Caroline Way was unhappy because she believed the claimant had acted in a way that disregarded her authority. The Tribunal concludes that it is this that motivated Caroline Way's treatment of the claimant, and not his race.
- e. This complaint of direct race discrimination therefore fails.

280. Complaint 8:

- a. The Tribunal has found that Caroline Way conducted Independent File Reviews of two of the claimant's files and only one of Simona Obeng's files.
- b. The Tribunal therefore finds that the claimant was treated differently to Simona Obeng. However, the Tribunal concludes that the claimant's actual comparator of Simona Obeng was not in the same position in all material respects to the claimant because she had worked for the respondent for considerably longer and was not within her probationary period. The Tribunal concludes that the correct comparator is a hypothetical comparator of a white employee working in the role of Student Advisor and in their probationary period.
- c. The Tribunal finds that the claimant was not treated less favourably than a hypothetical comparator would have been. Accordingly, the Tribunal concludes that there was no less favourable treatment of the claimant.
- d. Further, the Tribunal finds that there is no detriment to the claimant because he did not raise any concerns about the content of Caroline Way's Independent File Reviews and because he agreed that they were a supportive tool.
- e. Further, if there was less favourable treatment, the Tribunal concludes that such treatment was not because of the claimant's race. It was because Caroline Way prioritised Independent File Reviews for him because he was on probation. By the claimant's own admission, if Caroline Way had stated from the start that she would review two of his files and one of Simona Obeng's files because he was on probation, he would have accepted that.
- f. This complaint of direct race discrimination therefore fails.

281. Complaint 11:

- a. The Tribunal has found that Caroline Way did not do nothing to support him during Simona Obeng's two weeks' leave in May 2024.
- b. To the extent that Caroline Way passing two appointments to the claimant, only one of which he was able to carry out, may be considered a lack of support, the Tribunal concludes that this was not sufficient increase in workload to amount to a detriment.
- c. Further, the Tribunal concludes that the reason for passing two appointments to the claimant was that Caroline Way had to do a welfare check and had no availability respectively. It was not because the claimant did a protected act.
- d. This complaint of victimisation therefore fails.

Harassment

282. Did the respondent do the following things:

	POC para.	Date	Event/allegation	Perpetrator/s
2	14	1/2/2024	The claimant was subjected to an intrusive and unwarranted line of questioning about his office hours, whereabouts, breaks and any instance of leaving the office building.	Oli Gray.
18	97-102	27/6/2024	Caroline Way said "I am offended. I cannot understand why my intentions do not matter. You are calling me a racist."	Caroline Way.

283. If so, was that unwanted conduct?

284. Did it relate to the claimant's race?

285. Did the conduct have the purpose or effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant?

286. Complaint 2:

- a. The Tribunal has found that Oli Gray asked the claimant some questions about his breaks but did not subject the claimant to an intrusive and unwarranted line of questioning. The Tribunal has found that the claimant felt a need to explain himself and may have felt a bit awkward or embarrassed during the conversation. The Tribunal concludes that Oli Gray's conduct was unwanted by the claimant.
- b. The Tribunal has found that Oli Gray asked the claimant about his breaks due to his concern that the claimant was taking extended breaks away from his desk including for personal telephone calls. The Tribunal concludes that Oli Gray's conduct was not related to the claimant's race.
- c. The Tribunal has found that the claimant did not feel humiliated or demeaned as he described. The Tribunal therefore concludes that Oli Gray's conduct did not have the purpose or effect of violating the

claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant.

d. This complaint of harassment therefore fails.

287. Complaint 18:

- a. The Tribunal has found that Caroline Way did say "I am offended. I cannot understand why my intentions do not matter. You are calling me a racist." Further, the Tribunal has found that Caroline Way made this statement whilst heated, during a heated exchange with the claimant.
- b. The Tribunal has found that Caroline Way reasonably misunderstood the claimant's intentions and that the claimant sought to explain himself. However, by Caroline Way's own evidence, she went on to repeat her understanding that the claimant was calling her racist. The Tribunal concludes that this was unwanted conduct.
- c. The Tribunal concludes that the statement "you are calling me a racist" is directly related to the difference in race between Caroline Way and the claimant, and therefore is related to the claimant's race.
- d. The Tribunal has found that the situation upset both Caroline Way and the claimant. The Tribunal has found that Caroline Way's actions created an intimidating and hostile environment for the claimant.
- e. This incident occurred after 7 May 2024 and the claimant's claim in connection with this incident was brought within the time limit set out in sections 123 and 140 of the Equality Act 2010.
- f. This complaint of harassment therefore succeeds.

Victimisation

288. Did the respondent do the following things:

	POC para.	Date	Event/allegation	Perpetrator/s
9	62	8/5/2024	At the conclusion of the meeting, the claimant's probation was extended by 3 months.	Caroline Way, Oli Gray.
10	62	10/5/2024	Caroline Way refused to adjust the 2-3 day timeframe for responding to student emails.	Caroline Way.
12	65	15/5/2024	Harriet Saunders suggested filing a grievance solely against Caroline Way.	Harriet Saunders.
13	67	24/5/2024	Caroline Way provided the claimant with a Self Improvement Plan which imposed additional tasks and scrutiny on him.	Caroline Way.
14	73	29/5/2024	Harriet Saunders told the claimant his proposal for an independent and external review of his work was not feasible.	Harriet Saunders.
15	86-87	7/6/2024	Simona Obeng approached Caroline Way to challenge the support and guidance the claimant had provided to a student instead of communicating her opinion directly to the claimant.	Simona Obeng.
16	89-95	13/6/2024	Caroline Way denied a student who asked to be seen by the BME Advisor access to the BME	Caroline Way.

			Advisor (the claimant) and the Student Advisory Service.	
17	96	26/6/2024	Caroline Way ambushed the claimant by calling him for a meeting with her and Harriet Saunders about whether he was able to work without informing him in advance what the meeting was about.	Caroline Way, Harriet Saunders.
19	104-109	28/6/2024	Christina Kennedy interrogated the claimant about the discrimination issues he had raised and in an intimidating tone reminded him that he was still on probation and that it had been extended for three months.	Christina Kennedy, Harriet Saunders.
20	111	2/7/2024	Christina Kennedy provided inaccurate notes of the 28 June 2024 meeting in a tone and style that presented the claimant as the problem and troublemaker.	Christina Kennedy.
21	n/a	n/a	n/a	n/a
22	115-116	1-2/8/2024	Caroline Way introduced independent file reviews then unexpectedly did an independent file review on one of the claimant's cases before the next Reflective Practice meeting and brought it up at the next 1:1 meeting as a point of discussion.	Caroline Way.
23	Amended claim (as amended on 24 January 2025)	30/8/2024	The claimant's employment was terminated during a probationary review meeting by Caroline Way and Harriet Saunders.	Caroline Way, Gabbi Foreman.

289. By doing so, did it subject the claimant to detriment?

290. If so, was it because the claimant did a protected act?

291. Complaint 9:

- a. It is not in dispute that the claimant's comments at the start of the six-month review meeting amounted to a protected act.
- b. It is not in dispute that Caroline Way decided to extend the claimant's probationary period by three months. The Tribunal has found that Oli Gray was not part of this decision.
- c. The Tribunal concludes that the extension of a probationary period is capable of amounting to a detriment.
- d. The Tribunal has found that Caroline Way made that decision before the start of the six-month probationary period. The Tribunal therefore concludes that Caroline Way did not extend the claimant's probationary period because of the claimant's comments at the start of the six-month review meeting.
- e. This complaint of victimisation therefore fails.

292. Complaint 10:

- a. The Tribunal has found that Caroline Way did refuse to adjust the 2-3 day timeframe for responding to student emails.
- b. The Tribunal has found that Caroline Way's position on this remained consistent before and after the claimant's first protected act on 8 May

2024. The Tribunal has further found that Caroline Way did not want to move away from the 2-3 working days timescale because she regarded this as an important service standard for delivering advice to students.

- c. The Tribunal concludes that the requirement for the claimant to meet the 2-3 working days timescale could be a detriment for the claimant because although it was applied equally across the team, the claimant had to have his emails checked before they were sent out which would take additional time. However the Tribunal has made a finding that Oli Gray advised the claimant he could send a holding email where necessary.
- d. The Tribunal concludes that Caroline Way's refusal to adjust the 2-3 day timeframe was not because the claimant did a protected act. It was because Caroline Way did not want to move away from the 2-3 working days timescale because she regarded this as an important service standard for delivering advice to students.
- e. This complaint of victimisation therefore fails.

293. Complaint 12:

- a. It is not in dispute that Harriet Saunders did suggest that the claimant submit a grievance against Caroline Way.
- b. Although the claimant was concerned that it would erase his concerns about what had happened before Caroline Way was his line manager, the Tribunal has found that Harriet Saunders made the suggestion as an option for the claimant to consider and that the claimant was not compelled to submit a grievance against Caroline Way or against only Caroline Way. The Tribunal concludes that this was not a detriment.
- c. The Tribunal further concludes that Harriet Saunders' suggestion was made as a way to help the claimant resolve his concerns and not because the claimant did a protected act.
- d. This complaint of victimisation therefore fails.

294. Complaint 13:

- a. The Tribunal has found that the Self-Improvement plan did not impose additional tasks, additional basis for assessment or additional scrutiny on the claimant. Caroline Way did refuse to adjust the 2-3 day timeframe for responding to student emails.
- b. Further, the Tribunal has found that the purpose of the Self-Improvement Plan was to set out the objectives discussed in the six-month review meeting on 8 May 2024 and to make clear that these were a high priority for the claimant in order to help him pass his probation. Accordingly, the Tribunal concludes that the imposition of the Self-Improvement Plan (i) was not a detriment because it was intended to support the claimant to pass his probation and (ii) was not because the claimant had done a protected act.
- c. This complaint of victimisation therefore fails.

295. Complaint 14:
- a. The Tribunal has found that Harriet Saunders told the claimant his proposal for an independent and external review of his work was not feasible.
 - b. The Tribunal has found that from the claimant's own review, there is no evidence from which to conclude that his colleagues made similar failings to him or at a similar frequency to him. Accordingly, the Tribunal concludes that the decision not to offer an external review was not a detriment to the claimant.
 - c. The Tribunal has found that Harriet Saunders acted on the advice of external HR and Christina Kennedy, and that it would be an unusual step for an employer to ask an external person, whether part of the wider organisation or not, to review a decision to extend someone's probation unless this formed part of a grievance. Accordingly, the Tribunal finds that the decision not to offer the claimant an external review was not because he had done a protected act.
296. Complaint 15:
- a. The Tribunal has found that Simona Obeng did approach Caroline Way rather than the claimant to raise the feedback.
 - b. The Tribunal has found that this was reasonable given that the claimant's probation had been extended and Caroline Way was the claimant's line manager and needed to assess his performance and support him to pass his probation. The Tribunal concludes that this action did not amount to a detriment.
 - c. The Tribunal has found that Simona Obeng approached Caroline Way rather than the claimant because he had responded negatively when she did an Independent File Review. The Tribunal concludes that Simona Obeng did not act in this way because the claimant did a protected act.
 - d. This complaint of victimisation therefore fails.
297. Complaint 16:
- a. The Tribunal has found that Christina Kennedy and Caroline Way respectively intervened in the Sabbatical Officer's request to see the BME Student Advisor and that they denied this request.
 - b. The Tribunal concludes that this intervention and the failure to consult with the claimant about this intervention were not a detriment to the claimant.
 - c. The Tribunal has found that the intervention, on both occasions, was because the Sabbatical Officer was employed by the respondent and the situation therefore gave rise to a potential conflict of interest. The Tribunal concludes that the intervention was not because the claimant did a protected act.
 - d. This complaint of victimisation therefore fails.
298. Complaint 17:
- a. The Tribunal has found that the claimant was not ambushed by the meeting on 26 June 2024 and had a reasonable understanding of what the meeting would be about.

- b. The Tribunal has found that Caroline Way and Harriet Saunders did ask the claimant if he was able to work. The Tribunal concludes that this question was asked in response to the claimant raising concerns about his physical and mental health and (i) did not amount to a detriment and (ii) was not asked because the claimant did a protected act.
- c. This complaint of victimisation therefore fails.

299. Complaint 19:

- a. The Tribunal has found that the meeting on 28 June 2024 covered some difficult areas, but Christina Kennedy did not interrogate the claimant. The Tribunal has found that Christina Kennedy did make a reference to the claimant's probation, that this was a reasonable and appropriate thing for her to do, and that it was not done in an intimidating tone.
- b. The Tribunal concludes that the meeting was not a detriment to the claimant.
- c. Further, the Tribunal concludes that the reason for the meeting was to find a way to resolve the issues that had arisen between the claimant and Caroline Way the day before and was not because the claimant did a protected act.
- d. This complaint of victimisation therefore fails.

300. Complaint 20:

- a. The Tribunal has found that there were some inaccuracies in the notes of the meeting, which included wording that implied a more disrespectful tone towards Christina Kennedy than the claimant used.
- b. The Tribunal heard no evidence that the notes would be used for anything other than a file record. The Tribunal concludes that there was no detriment to the claimant.
- c. The Tribunal did not attribute any intention to Harriet Saunders in the way she recorded the notes. The Tribunal concludes that the reason for the inaccuracies in the notes was Harriet Saunders' relative lack of experience and that she was not recording the notes verbatim. It was not because the claimant did a protected act.
- d. This complaint of victimisation therefore fails.

301. Complaint 22:

- a. The Tribunal has found that Caroline Way unexpectedly did an Independent File Review of one of the claimant's files before the conduct of such reviews was discussed in a Reflective Practice meeting.
- b. The Tribunal has found that it was reasonable for the claimant to believe that Caroline Way would not conduct an Independent File Review at that time. The Tribunal has found that the claimant did not raise any concern about the content of the Independent File Review. The Tribunal concludes therefore that the fact that it was utilised instead of informal feedback and the fact that it would be permanently recorded on Case Manager did not subject the claimant to a detriment.
- c. The Tribunal has found that Caroline Way conducted the Independent File Review because she had time to do so and that she prioritised the claimant's file because he was on probation. The Tribunal concludes that Caroline Way did not act because the claimant had done a protected act.

d. This complaint of victimisation fails.

302. Complaint 23:

- a. The Tribunal has found that the claimant's employment was terminated by Caroline Way during a probationary review meeting on 30 August 2024. The Tribunal concludes that this was a detriment to the claimant.
- b. The Tribunal has found that Caroline Way decided to dismiss the claimant because he was not updating the Case Manager, despite this being part of his role since the start of his employment and expressly set as an objective on which his probation would be assessed in the six-month review meeting. The Tribunal therefore concludes that Caroline Way did not act because the claimant had done a protected act.
- c. This complaint of victimisation fails.

Approved by:

**Employment Judge Booth
Date 28 August 2026**

JUDGMENT AND REASONS SENT TO THE PARTIES ON
27 September 2026

FOR THE SECRETARY OF THE TRIBUNALS

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