



EMPLOYMENT TRIBUNALS

Claimant: Mr Amit Verma

Respondent: Manchester University NHS Foundation Trust

Heard: Manchester Employment Tribunal

On: 23 March 2026 to 1 April 2026 and 3 June 2026 to 4 June 2026

Before: Employment Judge G Tobin
Mr S Carter
Ms S A Humphrey

Attendance/representation

Claimant: In person

Respondent: Ms M Martin (counsel)

RESERVED JUDGMENT

It is the unanimous decision of the Employment Tribunal that:-

1. The claimant was not directly discriminated against by the respondent on the grounds of his religion and/or race, pursuant to s13 Equality Act 2010.
2. The respondent did not harass the claimant, on the grounds of his religion and/or race, pursuant to s26 Equality Act 2010.
3. The claimant was victimised by the respondent under s27 Equality Act 2010. The claimant succeeds in 3 of his 5 allegations.
4. The claimant was not indirectly discriminated against on the grounds of his religion and/or race, pursuant to s26 Equality Act 2010.

REASONS

Introduction

1. This is the unanimous Judgment of the Employment Tribunal following a hearing extending over 6 days at Manchester Employment Tribunal. The claimant represented himself throughout. The respondent was represented by counsel. At the conclusion of the evidence, we (i.e. the Employment Tribunal) reserved our decision. We deliberated for 2 days. This is our determination.
2. The claimant pursued complaints of direct discrimination because of religion and race, harassment related to religion and race, victimisation and indirect discrimination contrary to the Equality Act 2010 (hereinafter referred to as "EqA"). The claims arise from events occurring principally between December 2023 and the spring of 2024 whilst the claimant was employed by the respondent as a Senior Pharmacy Assistant within its ward-based pharmacy service. The principal factual issues concerns the creation and presentation to the claimant of an "Invisible Employee" certificate on 11 January 2024. The claimant contends that the certificate, the manner in which it was presented and the respondent's subsequent handling of his complaints amounted to unlawful discrimination. The respondent disputes those allegations. It accepts that aspects of the incident were unfortunate but maintains that they were unrelated to any protected characteristic and formed part of an established culture of informal workplace humour. The indirect discrimination claim addresses the wider workplace culture.
3. The claimant issued his claim on 17 May 2025. We did not determine any dispute beyond that time. We heard evidence about events that occurred later and considered documents about subsequent matters, but we only took matters into account that, we determined, were relevant to the claim as presented on 17 May 2025.

The issues

4. The issues to be determined were contained within the agreed List of Issues. They were extensive. The claimant's primary case is that the matters identified at paragraphs 2(a)–(j) of the List of Issues constitute harassment related to religion and race and, alternatively, direct discrimination. Separate issues arise in relation to victimisation and indirect discrimination. Although the issues are numerous, they can conveniently be grouped under 4 broad headings: (i) the 8 December 2023 incident involving Ms Ashraf; (ii) the planning and presentation of the "Invisible Employee" certificate; (iii) the respondent's handling of the claimant's complaints; and (iv) whether the treatment which we find occurred was because of religion

or race, or because the claimant had carried out protected acts. We then proceeded to determine the indirect discrimination complaint.

The evidence and other material

5. We heard oral evidence from the claimant and from 8 witnesses on behalf of the respondent: Bushrah Ashraf, Rosina Naz, Andrew Ablott, Jamarl Gibbons, Samantha Ekin, Tracey McLaren, Sarah Houghton and John Landers. All witnesses adopted written witness statements and were cross-examined. We asked questions for clarification. We also considered a hearing bundle in excess of 2,000 pages, together with the parties' chronologies. We were assisted by detailed written closing submissions from both parties and we also heard oral representations. We have taken all of that material into account, whether or not expressly referred to in this Judgment.
6. There was comparatively little dispute regarding the broad chronology. The principal disputes concerned the motivation of individual witnesses, the significance of particular events and whether apparently innocent explanations advanced during the hearing were consistent with the contemporaneous documents. The Tribunal approached the oral evidence with care. We did not find every witness reliable. Memory had inevitably faded by the time of the hearing, and, in several important respects, oral evidence conflicted with contemporaneous documents. Where that occurred, we generally preferred the contemporaneous documents unless there was a convincing explanation for the discrepancy.
7. We also reminded ourselves that discrimination is seldom admitted. The Tribunal is therefore frequently required to draw inferences from the primary facts. Equally however, poor treatment does not necessarily establish unlawful discrimination. Employers and colleagues sometimes behave unfairly, unwisely or even maliciously for reasons entirely unrelated to a protected characteristic. It is therefore necessary to distinguish carefully between findings concerning what occurred and findings concerning why it occur
8. Now that we have consider all of the documents and heard from the witnesses, we assess the key witnesses as follows.
9. The claimant gave evidence over a lengthy period and was subjected to detailed cross-examination. We found him to be an honest witness. He was plainly upset by the events in question and remained emotional when giving evidence. His account of the central events was broadly consistent with the contemporaneous documents. In places he invited us to draw inferences which, ultimately, we did not draw. Nevertheless, we did not regard him as exaggerating his distress or inventing events. Indeed, the promptness and

consistency of his complaints, together with the contemporaneous medical evidence, strongly support his account that the index incident and the ensuing processes affected him profoundly. We did not regard that as undermining his credibility. This did not mean, however, that every allegation he advanced was made out. It did, however, materially strengthen his credibility as a witness of fact.

10. We do not express the same confidence in the evidence of Ms Bushrah Ashraf. There were a number of aspects of her evidence which we found inherently improbable and, in some respects, inconsistent with contemporaneous documentation. We were particularly troubled by her assertion that she was unaware that the claimant was Hindu despite having worked with him over a prolonged period within a relatively small department where religion was championed and had on occasions been openly discussed. We do not accept her evidence in that regard, nor the evidence of Ms Naz, who supported her. Their religion obviously mattered to Ms Ashraf and Ms Naz, they presented that way, and we heard that Ms Ashraf (at least) organised religious and cultural events in the workplace. We are satisfied that Ms Ashraf and Ms Naz knew the claimant's religious background. That finding, however, does not itself determine the discrimination claims. It is simply one aspect of our wider assessment of her credibility.
11. Ms Naz sought to minimise the significance of the events of 11 January 2024. We accept parts of her factual account but consider that she understated both her own involvement and the foreseeable impact of the presentation upon the claimant.
12. Mr Andrew Ablott gave his evidence carefully and, in our assessment, sought to tread the difficult line between assisting the Tribunal and justifying his role. We do not regard him as dishonest in his evidence to the Tribunal. He was an intelligent and experienced manager who accepted, with some candour, that aspects of his investigation could have been handled better. Nevertheless, we concluded that his investigation suffered from a fundamental defect. The claimant's repeated allegation was that he had been subjected to race and religion discrimination. Despite the clarity with which that allegation was advanced, Mr Ablott did not confront the principal participants directly with it. We do not accept that this occurred because he failed to understand the complaint. Rather, we conclude that he chose not to grapple with the central allegation. Whether that reflected an unwillingness to enter contentious territory or a misunderstanding of his role, the consequence was the same: the principal issue requiring investigation was never properly investigated. That omission substantially undermined both the quality of the investigation and the confidence which we were able to place both in his conduct and the eventual conclusions.

13. Ms Samantha Ekin approached the investigation, on the face of it, conscientiously. We do not regard her as attempting deliberately to mislead the Tribunal. However, by the time responsibility passed to her, important opportunities had already been lost, which she did not seek to rectify. More significantly, although her investigation was more thorough than the earlier exercise, it continued to concentrate upon whether the certificate had been intended as a joke rather than squarely addressing the claimant's central allegation of race and religion discrimination. Those are materially different questions. We are left with the clear impression that the investigation continued to avoid the issue which most required determination. Accordingly, whilst we make no overt criticism of Ms Ekin's honesty at the hearing, we conclude that her investigation did not remedy the obvious and central defect in the respondent's handling of the claimant's complaints.

Our findings of fact

14. We made the following findings of fact. We did not determine every dispute between the parties, merely those relevant to the list of issues. Where this is not obvious, we have stated how we have reconciled the evidence to our determination.

Background

15. The claimant commenced employment with the respondent on 8 September 2008. At the time of the events under scrutiny, he was a Band 3 Senior Pharmacy Assistant within the ward-based pharmacy service, and he had completed approximately 15 years' continuous service. No persuasive evidence was placed before us that, prior to late 2023, he had been regarded as a poor employee or someone who presented management difficulties. On the contrary, the contemporaneous documentation and the oral evidence satisfied us that he was regarded as conscientious, experienced and reliable. Like many experienced employees, he was prepared to question decisions with which he disagreed, but we reject any suggestion that he was habitually argumentative or disruptive. That is not the picture which emerges from the evidence as a whole.
16. The claimant is of Indian ethnicity and is Hindu. His pleaded case is advanced by reference to both religion and race. The dispute concerned whether his protected characteristics materially influenced the treatment of which the claimant complains. That distinction is important. It is one thing to establish membership of a protected group; it is another to establish that adverse treatment occurred because of that membership. We recognise throughout this judgment we have sought to keep those two questions separate.

17. Considerable evidence was placed before the Tribunal concerning equality, diversity and inclusion initiatives within the Trust and, more particularly, within the Pharmacy Department. We were referred to departmental emails recognising Ramadan, Eid, Easter and Christmas, workforce equality data, committee papers and departmental newsletters. The claimant relied upon those documents to demonstrate that Islamic and Christian observance received visible recognition whereas Hindu observance received little, if any, equivalent recognition. The respondent submitted that those documents merely reflected the practical operation of an inclusive workplace and did not demonstrate differential treatment. We shall return to that evidence when considering the indirect discrimination claim. At this stage it is sufficient to note that religion was not a topic absent from the workplace. On the contrary, there was ample evidence that religious festivals were discussed openly and, on occasion, recognised through departmental communications.
18. The claimant also relied upon a number of conversations during 2023 in which he discussed religion with Ms Ashraf, Ms Naz and other colleagues. He maintained that he had openly spoken about Diwali, Hindu fasting and his religious beliefs. Ms Ashraf and Ms Naz contended that they never discussed such matters with the claimant. We accept the claimant's evidence and reject the evidence of Ms Ashraf and Ms Naz. at evidence. We do so not because every conversation can now be reconstructed in detail but because were the evidence between the witnesses differed in addressing this, we preferred the evidence of the claimant as honest and reliable. His religion was known within the department. We therefore reject Ms Ashraf's evidence that she did not know the claimant was Hindu. We found that assertion inherently improbable. The department was relatively small, the claimant and Ms Ashraf had worked together for years, and religious observance had been discussed on a number of occasions. In our judgment, the more probable explanation is that Ms Ashraf sought to distance herself from any suggestion that religion might have featured in the subsequent dispute. That attempt materially undermined her credibility. It does not, however, compel the conclusion that the treatment complained of occurred because of religion. Those are separate questions and it is important not to conflate the two.
19. During the hearing, much time was devoted to the general atmosphere within the Pharmacy Department. It would be wrong to characterise it either as an oppressive workplace or as one entirely free from inappropriate humour. The evidence established that staff frequently engaged in banter and that informal certificates or awards were occasionally created recognising individual members of staff. Ms Ashraf was the driving force behind these "jokey" awards. Most awards were plainly innocuous. Others, in our judgment, were capable of causing embarrassment or offence. It would be artificial to suggest that every employee necessarily regarded

such awards as harmless. Equally, it would be wrong to conclude that most or every such award reflected discriminatory animus. We therefore approach the 'Invisible Employee' certificate in the context of recognising the existing workplace culture whilst noting that its content, timing and presentation require separate consideration.

The 8 December 2023 incident

20. It was against this background that relations between the claimant and Ms Ashraf deteriorated during December 2023. The immediate catalyst was an incident occurring on 8 December 2023. The detail of which occupied some hearing time. In our judgment, the precise mechanics of the incident matters less than its consequences. The claimant required assistance in relation to patient discharges. Ms Ashraf indicated by HIVE message that she was on her way. She did not arrive. Explanations subsequently advanced varied. At different times reference was made to another individual, a patient and a patient's wife. The claimant regarded those explanations as inconsistent and concluded that he had been deliberately left to manage alone and kept late at work. Whether that conclusion was objectively justified transcends this issue. What matters more is that the claimant genuinely believed he had been treated unfairly and raised the matter with more senior management.
21. The claimant contended that Ms Ashraf was malicious leaving him to do the work himself and that she gave false reasons for not attending and that she was false when she said that she was on her way. We are not satisfied, on the balance of probabilities, that the claimant has established the more serious allegation that Ms Ashraf maliciously failed to attend or deliberately lied when she said she was on her way. The evidence consisted essentially of competing accounts, and we cannot safely resolve that dispute in the claimant's favour. The evidence on that issue was insufficient to permit such a finding. A more probable explanation could be that Ms Ashraf was insufficiently conscientious about keeping time or perhaps she was seeking to avoid or delay a task that she did not like. However, we also reject the respondent's suggestion that the incident was of no significance. We are satisfied that the claimant genuinely believed at the time that he had been treated unfairly and complained about the incident.
22. The real significance of the incident lies later in the chronology. We are satisfied that Ms Ashraf became aware that the claimant had complained about her conduct. We reject her evidence to the contrary. The department was sufficiently small that such a complaint was unlikely to remain unknown to the individual concerned. More importantly, subsequent events make little sense unless the earlier complaint had materially affected the relationship between them. In our judgment, it did. It also accounts for Ms

Ashraf's her hostile or negative attitude to the claimant in the initial investigation meeting.

23. We are satisfied that Ms Ashraf became aware of the claimant's complaint. Her defensive attitude during the investigation is more consistent with knowledge of the complaint than ignorance of it and supports our finding that the events of 8 December 2023 formed the background to those of 11 January 2024.

The development of the "Invisible Employee" certificate

24. The informal award ceremonies were largely the creation of Ms Ashraf. They had developed over time and generally took place on Thursdays. Managers were aware of the practice and, although they did not formally endorse it, neither did they seek to prohibit it. We saw a number of photographs of previous recipients. The overwhelming majority were plainly light-hearted. A small number, however, were capable of causing embarrassment or offence. We deliberately refrain from identifying those recipients because this is a public document and there is little justification for naming individuals who are not parties to these proceedings; those individuals might have been previously upset and might, rightly, not wish to be drawn into further contention. The significance of these photographs was twofold: first, we viewed and then discussed some of the more apparently rude/disrespectful/insulting awards. These seemed to be directed towards colleagues from different sexes, different ethnic backgrounds and apparently different religions or no-religions. Second, not every award was objectionable, in fact most were not.
25. We are satisfied that the certificate did not emerge spontaneously on 11 January 2024. It was the product of discussion over a period of weeks. That finding is supported by the contemporaneous emails, the investigation material and the oral evidence. It also accords with common sense. Certificates had to be prepared, wording worked out and arrangements made for the presentation.
26. The respondent submitted that the certificate formed part of a light-hearted series of workplace awards designed to recognise colleagues in an informal manner. There is some force in that submission. The evidence established that humorous certificates had been produced previously and that many employees regarded them as harmless banter. However, that submission ignores the obvious: labelling a colleague as an invisible employee is an obvious insult. It suggests that he was conspicuously absent, evasive or even workshy. That said, this Tribunal was more concerned with this certificate, presented to this claimant, in these particular circumstances. The existence of a wider culture of workplace humour does not fully answer

the question whether the treatment of the claimant was appropriate or why it occurred.

27. A feature of the evidence to which we attach particular significance is the intervention of Natalie Marshall. We are satisfied that, before the presentation took place, Ms Marshall expressed the clear view that the proposed certificate should not be presented to the claimant. We accept the contemporaneous record of that intervention. It demonstrates that an experienced manager, viewing the proposal before the event, immediately recognised that it was obviously offensive or, at least, carried a significant risk of causing offence. That reaction is wholly inconsistent with the respondent's subsequent attempt to characterise the certificate as an obviously harmless joke.
28. We also regard the absence of Ms Marshall from the respondent's witnesses as significant. We do not draw an adverse inference merely because a witness is not called. Nevertheless, where an individual appears from the contemporaneous documents to have played an important role in the relevant events and could have assisted the Tribunal on a disputed issue, the absence of evidence from that witness inevitably limits the weight which can be attached to contrary explanations advanced by others.
29. We therefore find that Ms Ashraf proceeded with the presentation despite having been told that it should not take place. We reject any suggestion that this was an innocent misunderstanding. We assess that it was motivated by her resentment towards the claimant arising from the events of 8 December 2023 and the claimant's complaint against her. It represented a deliberate decision to continue with a course of action after concerns had already been expressed.
30. Ms Naz's role was different. We do not regard her as the originator of the idea. Rather, she participated in its implementation. She was easily lead and did not appear to be of strong character. We accept that she sent the message asking the claimant to attend the satellite room and participated in the presentation. Whilst we do not place her in precisely the same position as Ms Ashraf, we are satisfied that she appreciated that the claimant had not volunteered to receive the certificate and that he was being brought to the room without knowing what awaited him. We are not satisfied that she was unaware of the insult awaiting the claimant because of the deceitful nature of her involvement.
31. The claimant's evidence that he believed he had been summoned for a work-related reason was entirely plausible. There is nothing in the contemporaneous material to suggest that he anticipated an awards presentation. Indeed, the element of surprise was central to the manner in which the event was orchestrated. We therefore reject the respondent's

suggestion that the claimant knowingly entered into a shared joke. He did not. He was placed in an unexpected and embarrassing situation in front of colleagues from which, realistically, there was no dignified means of withdrawal.

32. These findings are important. They do not, of themselves, establish unlawful discrimination. They do, however, provide the factual context against which the Tribunal must evaluate both the claimant's perception of events and the respondent's subsequent explanations. They also explain why the claimant reacted as he did in making an immediate and detailed complaint over the course of the following weekend.

The Presentation of the Certificate

33. The events of 11 January 2024 are at the heart of this case. By this stage the certificate had already been prepared, and the decision had been taken to present it, notwithstanding Natalie Marshall's earlier intervention, so it was not spontaneous.
34. The claimant received a message from Ms Naz asking him to attend the satellite room. We accept his evidence that the request conveyed a degree of urgency. Nothing suggested that he was being invited to participate in a social event or workplace celebration. We find that he attended because he believed he was required there for work.
35. When the claimant entered the room, he was presented with the certificate describing him as the 'Invisible Employee', signed 'Casper the Friendly CEO'. He had not previously seen the certificate. We reject the respondent's suggestion that he immediately appreciated the episode as mutual banter. His surprise was genuine.
36. The claimant was then asked to hold the certificate whilst photographs were taken. In our judgment this materially increased the humiliation. Once placed at the centre of the gathering, with colleagues watching, he had no realistic opportunity politely to refuse without creating an even more uncomfortable scene. His participation cannot fairly be characterised as willing consent.
37. We accept that colleagues later applauded. Whether every individual understood precisely why they were applauding is not possible to determine. We are, however, satisfied that Ms Ashraf and Ms Naz orchestrated the presentation, with the ensuing applause. Even if some applause had been spontaneous, it was the foreseeable consequence of the manner in which the event had been arranged.

38. Some attention was devoted to whether the certificate was intended for display upon the departmental noticeboard or whether only the photograph was to be circulated. We do not regard that factual dispute as decisive. The important point is that the organisers – Ms Ashraf and Ms Naz – intended the episode to be shared beyond those physically present. The subsequent circulation of the image and associated comments reinforced, rather than diminished, the claimant's sense of humiliation.
39. We also attach significance to the WhatsApp message referring to 'found him'. Viewed in isolation those words might appear trivial. Viewed in the context of a certificate labelling the claimant the 'Invisible Employee', together with the orchestrated presentation and photograph, they formed part of the same course of conduct and added to the ridicule.
40. We are entirely satisfied that the claimant left the incident distressed. His reaction was not manufactured afterwards for the purpose of litigation. It is supported by the speed with which he complained, the detail of his complaint and the consistency of his account thereafter.
41. We therefore reject the respondent's submission that the claimant simply misunderstood an innocent joke. That submission fails to engage with the cumulative effect of the planning, the warning that the certificate should not be presented, the element of surprise, the public applause/ridicule, the photograph and the subsequent circulation of the image. Considered together, those matters lead us to conclude that humiliation was not merely foreseeable but intended.

The claimant's complaint and the initial investigation

42. The Tribunal attaches much significance to the speed with which the claimant reacted to the incident. The presentation took place on Thursday 11 January 2024. Rather than dismissing the matter or allowing it to fade with the passage of time, the claimant spent much of the ensuing weekend preparing a detailed written complaint. We reject any suggestion that reflection somehow diluted the impact of the incident. On the contrary, the time taken to prepare the complaint demonstrates the depth of his concern and the seriousness with which he regarded what had occurred. Reflection strengthened rather than created his sense of humiliation.
43. On 14 January 2024 the claimant submitted a detailed grievance alleging discrimination, harassment, bullying and victimisation. The claimant in fact made 3 complaints, over that short period, most of it repetitive and duplicating; it suggests that he was not methodical or systematic and signifies his deep upset. He requested that the investigation be conducted outside the Pharmacy Department because he considered that those working within it would face an obvious conflict of interest. He also

described the significant impact which the incident had already had upon his mental health. The contemporaneous documents demonstrate that those concerns were expressed at the outset and were not subsequently invented for the purposes of litigation.

44. The respondent submitted that the claimant's early complaints were insufficiently clear to amount to protected acts. We reject that submission. Read fairly and in context, the claimant's emails repeatedly alleged/ referred to discrimination, harassment and victimisation, obviously related to his religion and race. Any reasonable reader would have understood that he was asserting treatment prohibited by the Equality Act 2010. If any genuine uncertainty had existed, the obvious course would have been to immediately ask him to clarify his complaint. No such clarification was sought so we are satisfied that the respondent understood perfectly well that the claimant was alleging unlawful discrimination, and, importantly, from the outset.
45. The claimant repeated those concerns in subsequent correspondence. He consistently maintained that the conduct towards him was linked to his religion and race and that those allegations required proper investigation. We determine that, despite protestation to the contrary, the respondent was left in no doubt as to the nature of the complaint requiring investigation.
46. We accept that the respondent was entitled, in principle, to appoint an internal investigator. We therefore reject the claimant's submission that the mere appointment of Mr Andrew Ablott constituted unlawful treatment. Large employers frequently investigate grievances internally and nothing in the respondent's policies required an external investigator in such a case.
47. However, once Mr Ablott accepted responsibility for the investigation, he was required to investigate the complaint actually made. It is here that the respondent's handling of matters first began seriously to falter.
48. Mr Ablott accepted in evidence that aspects of his investigation could have been better. We agree, but this is an understatement. His investigation addressed the existence of the certificate, the presentation and the workplace context. What it conspicuously failed to do was confront the central allegation of religion and race discrimination directly with the principal participants. That omission lay at the heart of the Tribunal's concern.
49. We have asked ourselves whether that omission may simply have been an oversight. Having considered the evidence as a whole, we reject that explanation. The claimant repeatedly referred to religion and race. "Discrimination" was referred to throughout his written complaints and the claimant explicitly referred to religion and race discrimination at the initial

investigation interview and referenced religion and race discrimination in subsequent correspondence. The fact that this was a complaint about religion and/or race discrimination could not sensibly have escaped the attention of any reasonable or competent investigator. Yet despite that, the evidence demonstrates that those allegations were not squarely put to Ms Ashraf, or Ms Naz, during the initial investigation. In our judgment that represented a fundamental investigative failure. A fact-finding exercise cannot fairly determine whether discrimination has occurred if the alleged discriminator(s) are never asked to respond directly to the allegation.

50. Mr Ablott's investigation failed to grapple with the central issue raised by the claimant. That failure fatally undermined his investigation. Mr Ablott was a reasonably intelligent and experienced manager. He was, we believe, an otherwise competent manager. He had access to a large and dedicated human resources department. We do not believe that his failure to understand and address the nature of the claimant's discrimination complaints were accidental or incompetence. He deliberately chose to avoid grappling with such an issue, particularly when the nature of the poor treatment alleged suggested that there might be some substance to the allegations.

The continuing investigation

51. Following criticism of the initial fact-finding exercise, responsibility for the investigation passed to Samantha Ekin. The claimant regarded that development with mixed feelings. On the one hand, it recognised that the earlier investigation had not addressed his complaint satisfactorily. On the other, he remained concerned that the investigation remained within the respondent's own management structure and would therefore fail to confront the central allegations he had repeatedly advanced.
52. We have considered whether those concerns were objectively justified. We reject the proposition that Ms Ekin's appointment was, of itself, a detriment. She approached the task promptly and sought to conduct further enquiries. The difficulty lay in the limitations of the investigative process which she inherited and pursued with similar and intended distraction or diversion.
53. Significantly, by the time Ms Ekin became involved, important opportunities had already been lost. Witnesses had discussed the incident amongst themselves, recollections had inevitably become less precise, and the claimant had by then been absent from work for a considerable period. The investigation therefore no longer enjoyed the benefit of the immediacy which should characterise an effective fact-finding exercise.
54. We also note that Ms Ekin interviewed several witnesses before meeting the claimant. That sequence was not unfair in itself, but it meant that early

accounts were obtained without the benefit of exploring in detail the claimant's explanation of why he considered the incident to amount to religion and race discrimination.

55. More importantly, the Tribunal is again left with the impression that the investigation concentrated upon whether the certificate had been intended as a joke rather than addressing the claimant's central allegation that it was discriminatory. Those are different questions. Conduct may be intended humorously and yet still be discriminatory. Equally, conduct may be malicious without being discriminatory. Notwithstanding, the Ekin investigation repeatedly blurred those distinctions, it was a diversion. The complain was clear and Ms Ekin appear resolved to circumvent properly addressing it.
56. We derive assistance from the contemporaneous involvement of Mr Jamarl Gibbons. Mr Gibbons was an Assistant HR Business Partner. He was not an independent voice because he worked for the respondent. So his views must have carried more weight. On 28 February 2024 Mr Gibbons identified that the discrimination raised by the claimant had been "discussed with Andy [Ablott] initially re religion" and that it needed to be addressed with Ms Ashraf. His observation that the discrimination allegation had not been properly explored accords with the Tribunal's own assessment. That contemporaneous recognition significantly undermines the respondent's case. This demonstrates that the respondent's Human Resources managers appreciated that the allegation remained outstanding. In our judgment it became increasingly difficult thereafter to explain why that issue was still not directly and comprehensively addressed.
57. The claimant remained absent from work. The medical evidence demonstrates that he was suffering significant psychological symptoms which he consistently attributed to the events of 11 January 2024 and their aftermath. We make no finding at this stage regarding medical causation for the purposes of remedy. We do, however, accept that the claimant's distress was genuine and contemporaneous.
58. Delay became another important feature of the process. We accept that some delay resulted from operational pressures and the practicalities of arranging meetings. Nevertheless, viewed overall, the investigation took substantially longer than the respondent's own procedures contemplated, and we find little reason to explain this delay other the two investigating officers unwillingness to grasp the nettle.

The outcome of the claimant's complaint

59. The complaint was first raised on 14 January 2024. The claimant did not receive the outcome until 19 April 2024, approximately 95 days later. The

respondent's own procedure said that this should have taken 12 days, so the respondent managers took eight times longer than the procedure permitted. Even allowing for practical difficulties, that delay was excessive and materially contributed to the claimant's frustration and loss of confidence.

60. The claimant was entitled to expect a more expeditious response to allegations of discrimination which he had repeatedly said were affecting his health.
61. Standing back and considering the investigation as a whole, we reach three principal conclusions. First, the respondent did not genuinely attempt to investigate the complaint as the investigation repeatedly failed to confront directly the allegations of religion and race discrimination. Second, the investigation took an unjustifiable length of time. This is because of the evasion of Mr Ablott and Ms Ekin. The delay did not cause these two managers to lose sight of their role, their deliberate avoidance of their task caused significant delay. Third, those failures caused the claimant understandable frustration which caused or contributed to his ill health and materially contributed to his perception that his complaints were not being taken seriously.
62. This was not a case of managers protecting colleagues because they shared the same race or religion. Rather, it was a case in which managers repeatedly failed to confront allegations of race and religion discrimination directly, because they may have regarded the allegations as having some force and more saliently, they did not want to confront such a controversial matter. That distinction underpins our later conclusions.

The relevant law

63. We have considered the statutory provisions, the authorities relied upon by the parties and the authorities to which we were referred during our deliberations. We briefly set out only those principles necessary to determine the issues before us.

The statutory provisions

64. The claims arise under s13 EqA (direct discrimination), s26 EqA (harassment), s27 EqA (victimisation) and s19 EqA (indirect discrimination). Importantly s136 EqA deals with the burden of proof. We have applied those provisions as interpreted by the appellate courts.

The burden of proof

65. S136 EqA provides the framework for determining discrimination claims. The Tribunal must first consider whether the claimant has proved facts from which, in the absence of an adequate explanation, it could conclude that unlawful discrimination has occurred. Only if that stage is satisfied does the burden pass to the respondent to prove that the treatment was in no sense whatsoever because of the protected characteristic.
66. In *Igen Ltd v Wong* [2005] IRL258, ICR 931 the Court of Appeal explained the two-stage approach. In *Madarassy v Nomura International plc* [2007] EWCA Civ 33; [2007] ICR 867 the Court emphasised that a difference in status or protected characteristic and a difference in treatment are not, without more, sufficient to shift the burden. In *Efobi v Royal Mail Group Ltd* [2021] UKSC 33; [2021] ICR 1263 the Supreme Court confirmed that the statutory burden remains upon the claimant at the first stage, although all the evidence is available to the Tribunal when deciding whether that burden has been discharged.

Direct discrimination

67. S13 EqA requires the Tribunal to determine whether the claimant was treated less favourably because of a protected characteristic. The reason why the treatment occurred is the central question. In *Shamoon v Chief Constable of the Royal Ulster Constabulary* [2003] UKHL 11; [2003] ICR 337 the House of Lords explained that the issues of comparator and reason are often intertwined. A comparator may be actual or hypothetical provided the material circumstances are the same or not materially different.
68. In *Nagarajan v London Regional Transport* [1999] ICR 877 the House of Lords confirmed that the protected characteristic need not be the sole or even the principal reason for the treatment, but it must have had a significant influence upon the decision.

Harassment

69. S26 EqA requires unwanted conduct related to a protected characteristic which has the purpose or effect of violating dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. In *Richmond Pharmacology v Dhaliwal* [2009] IRLR 336 the EAT stressed that Tribunals must evaluate the context, the claimant's perception and the objective reasonableness of that perception. The statutory question is not simply whether conduct caused offence but whether it was related to the protected characteristic and had the proscribed purpose or effect.

Victimisation

70. S27 EqA protects those who carry out *protected acts*. Whether a complaint amounts to a protected act depends upon its substance rather than the language used. The Tribunal considers the complaint in context and asks how it would reasonably have been understood by the employer. The protected act must materially influence the treatment complained of.

Indirect discrimination

71. S19 EqA requires the claimant to identify the relevant provision, criterion or practice ("PCP"), establish that it places persons sharing the protected characteristic at a particular disadvantage, demonstrate that he suffered that disadvantage, and then consider whether the respondent has shown the PCP to be a proportionate means of achieving a legitimate aim. Each element must be established before liability arises.

Important note

72. It follows that findings of poor management, unfairness or disgraceful index-behaviour do not, without more, establish liability under EqA. The Tribunal must identify both what occurred and the reason why it occurred before determining whether the statutory tests are satisfied.

Our Determination

Direct discrimination

73. We begin by reminding ourselves that the burden of proof provisions does not mean that the Tribunal should infer discrimination merely because the claimant is a member of a protected group and has been treated badly. The question is why the treatment occurred. So we considered all of the evidence before deciding whether the burden of proof passes to the respondent.
74. We accept that the claimant was subjected to treatment which was humiliating and deeply upsetting. We have found that the 'Invisible Employee' certificate was planned, that concerns were expressed before it was presented, that those concerns were ignored, and that the presentation was orchestrated in circumstances calculated to embarrass the claimant publicly. Those findings plainly amount to less favourable treatment.
75. The critical issue, however, is causation. Having considered the contemporaneous documents and the oral evidence, we are not satisfied that the claimant's race or religion materially influenced the decision to create or present the certificate. We have found that Ms Ashraf knew the claimant was Hindu, but knowledge of a protected characteristic does not

of itself establish that subsequent conduct occurred because of that characteristic.

76. We have instead found that the more probable explanation is that relations between Ms Ashraf and the claimant deteriorated following the events of 8 December 2023 and, in particular, the complaint made by the claimant. In our judgment the certificate was a retaliatory act directed at the claimant personally rather than because he was Hindu or of Indian ethnicity.
77. We have carefully considered whether an actual or hypothetical comparator assists the claimant. It does not. The evidence does not satisfy us that a colleague in materially the same circumstances, who had complained in the same way about a seemingly unpleasant and vindictive employee, but who did not share the claimant's protected characteristics, would have been treated differently. The reason for the treatment lay in the deteriorating personal relationship and the earlier complaint, not in race or religion.
78. We therefore conclude that, although the claimant was treated badly and unfairly, he has not established facts from which we could properly conclude that the treatment was because of race or religion. If we are wrong about that and the burden of proof did shift, we are satisfied that the operative reason was the personal conflict and retaliation arising from the December complaint rather than either protected characteristic.
79. The complaint of direct discrimination is therefore dismissed.

Harassment

80. The Tribunal accepts that the conduct was unwanted and that it violated the claimant's dignity. His perception of the incident was genuine, immediate and entirely understandable. We also accept that it created for him a humiliating and offensive environment.
81. That does not conclude the statutory enquiry. S26 EqA requires the unwanted conduct to be related to the protected characteristic. We have considered the planning of the certificate, the wording used, the surrounding comments, the applause, the later circulation of the image and the respondent's explanations.
82. None of those matters, whether viewed individually or cumulatively, satisfies us that the conduct was related to the claimant's religion or race. We have found instead that it arose from the personal hostility generated by the earlier complaint. The humiliation was real, but its cause was not the claimant's protected characteristics, it was his complaint.

83. We therefore reject the respondent's submission that this was merely harmless banter. It plainly was not. Equally, we reject the claimant's submission that every act of humiliation necessarily constitutes harassment within the meaning of s26 EqA. The Equality Act requires a causal connection with the protected characteristic, and we are not satisfied that connection has been established.
84. The complaint of harassment therefore fails.

Victimisation

85. We turn next to the complaint of victimisation. Unlike the direct discrimination and harassment claims, the Tribunal's findings of fact materially alter once the claimant made his complaints of discrimination. By 14 January 2024 the claimant had plainly carried out protected acts. We have already found that the respondent understood that he was alleging discrimination because of religion and race. The subsequent treatment must therefore be considered through the lens of s27 EqA. The question is whether the claimant was subjected to one or more detriments because he had carried out those protected acts.
86. The claimant had a contractual right to raise his concerns under the Dignity at Work policy. He was entitled to have his complaint or grievance address properly and promptly. We reject the respondent's submission that the investigation simply reflected ordinary grievance handling. We have found that both investigations repeatedly failed to address the complaint actually made. That failure was not an isolated omission. It persisted despite repeated reminders from the claimant and despite contemporaneous recognition within Human Resources that the allegation of discrimination still required direct investigation.
87. We accept that not every criticism advanced by the claimant constitutes victimisation. For example, we have rejected his complaint concerning the appointment of an internal investigator. However, we are satisfied that the repeated failure to engage with the protected complaints, the delay which flowed from that failure and the continued diversion away from the central allegation amounted to detriments within the meaning of s27 EqA. These were significant detriments.
88. The Tribunal has asked itself whether those detriments occurred because the claimant had carried out protected acts. We are satisfied that they did. Once the claimant alleged discrimination, the respondent's approach changed from investigating what had happened to avoiding determination of the discrimination allegations themselves. That causal connection was obvious to us and was sufficient to establish victimisation in respect of the

specific allegations at issues 13(c), 13(d) and 13(e), although 13(c) and 13(e) largely overlap.

89. Accordingly, the claimant succeeds in his complaint of victimisation to the extent identified in our findings on the List of Issues. The first two allegations of victimisation are dismissed

Indirect discrimination

90. The indirect discrimination claim requires a different analysis from the claimant's complaints of direct discrimination, harassment and victimisation. The claimant contends that the respondent applied a provision, criterion or practice ("PCP") of promoting, celebrating and favouring Islam and Christianity over other religions, including Hinduism. The claimant relies upon the departmental recognition of festivals such as Eid, Ramadan and Christmas together with the respondent's wider equality, diversity and inclusion activities.
91. We accept a number of the claimant's factual assertions. We accept that departmental communications referred to Ramadan, Eid, Christmas and other religious observances. We also accept that Hindu festivals received less visible recognition within the material placed before the Tribunal. We further accept that the claimant genuinely perceived this as demonstrating that his own religion received less prominence and less recognition than other faiths.
92. However, the existence of greater visibility does not of itself establish the pleaded PCP. The question for the Tribunal is not whether some religions received more prominence than others. The question is whether the respondent operated a PCP of promoting, celebrating or favouring Islam and Christianity over Hinduism.
93. Having considered all of the evidence, we are not satisfied that the claimant has established the pleaded PCP. The evidence demonstrated a series of communications, initiatives and events rather than a coherent policy or practice of favouring one religion over another. We accept the respondent's evidence that religious observance was generally encouraged and recognised within the workplace. The fact that some religions featured more prominently than others does not necessarily establish a PCP of religious preference.
94. The Tribunal had concern regarding the comparison advanced by the claimant between Hinduism and Christianity. Christianity occupies a distinctive position in England. Christian festivals are reflected in the national calendar, public holidays, school terms and wider civic life. Consequently, the mere fact that Christmas or Easter received recognition

within a large public sector employer does not, without considerably more, establish that Christians were being favoured over those of other faiths. We therefore place limited weight on the claimant's comparison with Christianity.

95. So far as Islam is concerned, we accept that the evidence demonstrated greater visibility of Islamic festivals and observances than Hindu festivals. However, the evidence also demonstrated that Muslim staff actively promoted religious events and sought workplace engagement with those events. The material before us suggested a workforce and local community containing a materially larger proportion of Muslim staff and service users than Hindu staff and service users. We are not persuaded that the resulting visibility of Islamic observance demonstrates a PCP of favouring Islam over Hinduism.
96. Even if we are wrong in that conclusion and the claimant has established the existence of the pleaded PCP, we are not satisfied that the claim succeeds. The claimant must still establish particular disadvantage.
97. We accept that the claimant personally felt marginalised and excluded. We entirely accept the genuineness of that perception. However, s19 requires more than proof of an individual's subjective sense of unfairness. The Tribunal must be satisfied that persons sharing the claimant's religion were placed at a particular disadvantage.
98. The evidence before us was insufficient to permit such a conclusion. No satisfactory evidence was adduced demonstrating that Hindu employees as a group suffered disadvantage from the matters relied upon by the claimant. Nor was there evidence enabling us to conclude, on the balance of probabilities, that Hindus generally were placed in a materially worse position because of the matters relied upon. Accordingly, even if we had accepted the existence of the pleaded PCP, we would nevertheless have concluded that the claim fails because the evidence does not establish the requisite group disadvantage.
99. Considering all of the evidence, we accept that the claimant had understandable concerns about the visibility afforded to different religions, Islam in particular, within his workplace. Those concerns were neither fanciful nor invented. Nevertheless, the statutory requirements of s19 EqA have not been established. The claimant has failed to establish either the pleaded PCP or the necessary group disadvantage. The complaint of indirect discrimination is therefore dismissed.

Summary

100. Accordingly, for the reasons set out above:

- (a) the complaint of direct discrimination is dismissed;
- (b) the complaint of harassment is dismissed;
- (c) the complaint of victimisation succeeds only in respect of those allegations identified above; and
- (d) the complaint of indirect discrimination is dismissed.

Remedy

101. The question of remedy, including any injury to feelings award, possible financial loss, appropriate interest and any other consequential matters arising from the successful victimisation complaints, will be determined at the remedy hearing unless the parties are able to now resolve matter between themselves.

**APPROVED BY EMPLOYMENT JUDGE TOBIN
DATED: 15 JULY 2026**

JUDGMENT AND REASONS SENT TO THE PARTIES ON
DATED: 17 July 2026

FOR THE TRIBUNAL OFFICE