# EMPLOYMENT TRIBUNALS

**Claimant:** Mr Abdul Suleman Mohamed

**Respondent** London Underground Limited

**On:** 3, 4, 5, 6, 7 and 10 August 2026

**Heard At :** Watford Tribunal in person

**Before:** Employment Judge Shrimplin
Ms L Jaffe
Mr A Scott

**Representation**
Claimant: in person
Respondent: Ms Crew (counsel)

JUDGMENT with summary reasons was given orally at the hearing on 10 August 2026 and written reasons were requested the same day during the hearing, prior to the issue of the judgment. In accordance with Rule 60 of the Employment Tribunal Procedure Rules 2024, written summary reasons were provided on 17 September 2026 and full reasons were requested on 19 September 2026. The following full written reasons are therefore provided.

# FULL REASONS

1. The case was heard at Watford Tribunal Rooms in person between the 3 and 7, and 10 Aug 2026 by a full panel. The Tribunal heard evidence from the Claimant and, on behalf of the Respondent, Mr Rose, Mr Sacco and Mr Adeyemi. Witness statements were submitted by Mr Braithwaite and Mr Panezai for the Respondent, however they did not attend. All the papers were contained within a hearing bundle of 377 pages, with additional documents provided by agreement at the start of the hearing. References to page numbers in this judgment refer to that bundle.

2. The issues in the case were set out in the case management order of August 2024 as follows: -

*The amended Scott Schedule will stand as the list of allegations for the purposes of the claims as follows:*

*1. Time limits*

*1.1 Given the date the claim form was presented and the dates of early conciliation, any complaint about something that happened before (date for the Tribunal to decide) may not have been brought in time.*

*1.2 Were the discrimination and victimisation complaints made within the time limit in section 123 of the Equality Act 2010? The Tribunal will decide:*

*1.2.1 Was the claim made to the Tribunal within three months (plus early conciliation extension) of the act to which the complaint relates?*

*1.2.2 If not, was there conduct extending over a period?*

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

*1.2.4 If not, were the claims made within a further period that the Tribunal thinks is just and equitable? The Tribunal will decide:*

*1.2.4.1 Why were the complaints not made to the Tribunal in time?*

*1.2.4.2 In any event, is it just and equitable in all the circumstances to extend time?*

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

*2.1 The Claimant identifies as race and religion.*

*2.2 Did the Respondent do the following things:*

*2.2.1 See Scott Schedule*

*2.3 Was that less favourable treatment?*

*The Tribunal will decide whether the Claimant was treated worse than someone else was treated. There must be no material difference between their circumstances and the Claimant's. If there was nobody in the same circumstances as the Claimant, the Tribunal will decide whether s/he was treated worse than someone else would have been treated.*

*See Scott Schedule for Comparators*

*2.4 If so, was it because of his race or religion?*

*2.5 Did the Respondent's treatment amount to a detriment?*

*3. Victimisation (Equality Act 2010 section 27)*

*3.1 Did the Claimant do a protected act as follows:*

*3.1.1 Raise a grievance on the 25 October 2020*

*3.1.2 Bring an Employment claim on the 10 August 2021*

*3.2 Did the Respondent do the following things:*

*3.2.1 See Scott Schedule*

*3.3 By doing so, did it subject the Claimant to detriment?*

*3.4 See Scott Schedule*

*3.5 If so, was it because the Claimant did a protected act?*

*3.6 Was it because the Respondent believed the Claimant had done, or might do, a protected act?*

*4. Remedy for discrimination or victimisation*

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

*4.2 What financial losses has the discrimination caused the Claimant?*

*4.3 What period of loss, if any, should the Claimant be compensated?*

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

*4.5 Should interest be awarded? How much?*

3. The Scott Schedule (referred to below as the **schedule**) set out a number of acts or omissions complained about by the Claimant.

4. The Claimant alleged he was discriminated against on the grounds of his religion or belief which he stated was Muslim and his race which he stated was Black Asian.

**The Law**

5. Section 13 of the Equality Act 2010 (the **Act**) reads, as far as is relevant to this case, as follows: -

*(1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.*
*(5) If the protected characteristic is race, less favourable treatment includes segregating B from others.*

6. Section 27 of the Equality Act 2010 reads, as far as is relevant to this case, as follows: -

> *(1) A person (A) victimises another person (B) if A subjects B to a detriment because— (a) B does a protected act, or (b) A believes that B has done, or may do, a protected act.*
>
> *(2) Each of the following is a protected act—*
>
> *...*
>
> *(c) bringing proceedings under this Act;*
>
> *(d) giving evidence or information in connection with proceedings under this Act;*
>
> *(e) doing any other thing for the purposes of or in connection with this Act;*
>
> *(f) making an allegation (whether or not express) that A or another person has contravened this Act.*
>
> *(3) Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.*
>
> *...*

7. At section 4 of the Act, race, and religion or belief (referred to below as "religion") are recognised as protected characteristics.

8. Under section 136 of the Equality Act 2010, if there are facts from which an Employment Tribunal could decide, in the absence of any other explanation, that a person has contravened the provision concerned, the Tribunal must hold that the contravention occurred, unless that person can show that he or she did not contravene the provision. Put another way, it is for the Claimant to provide sufficient evidence from which the Tribunal could decide, without any other explanation that the less favourable treatment was discrimination. Once that has been established, the burden of proof then falls on the Respondent to show that that was not the reason for the less favourable treatment.

9. When dealing with the initial applications, reference is made to the Overriding Objective within Rule 2 Employment Tribunal Rules of Procedure 2024 which states that the purpose of the Rules is to enable the Tribunal to deal with cases

fairly and justly and this includes:-

(a) ensuring that the parties are on an equal footing,

(b) dealing with cases in ways which are proportionate to the complexity and importance of the issues,

(c) avoiding unnecessary formality and seeking flexibility in the proceedings,

(d) avoiding delay, so far as compatible with proper consideration of the issues, and

(e) saving expense.

**Background**

10. The Claimant was employed on a part-time basis at London Underground Ltd for 15 hours per week with a start date of 9 Sept 2019. He was a Customer Service Assistant Level 1 (CSA1) which was a safety critical role. Early conciliation started on 2 June 2021 and ended on 14 July 2021. The claim form was presented on 10 August 2021.

**Initial Applications**

11. The Claimant made three applications which fell to be dealt with at the start of the hearing. The first was to add a claim of discrimination by reason of disability due to Autism and/or dyslexia under section 13 Equality Act 2010 and a claim of failure to make reasonable adjustments under section 21 of the same Act. The Claimant explained that he had been diagnosed with those conditions in 2013 and 2015 respectively. The Claimant said that he had taken the hearing bundle to get legal advice in January 2026 and had been told that he should make those claims. He had not done this before because he had had a mental breakdown in 2021. His statement (dated 18 February 2026) had been drafted to include those claims and he said it was clear the behaviour of the Respondent's employees had changed during events in 2020. He said that it was difficult to understand those events without the addition of these claims. He had not understood the Tribunal processes and had not received any advice until recently. He stated he had informed the Respondent of his disabilities.

12. In response, Ms Crew noted that the claim related to incidents occurring in 2021 and that the case had been prepared and listed for a full hearing in March 2024. There had been a number of preliminary hearings and the potential for disability related claims had never been raised. She argued that disability was

being put forward as an alternative basis for the whole of the claim as set out in the Scott Schedule. The Claimant's witness statement also suggested that there had been a failure to put reasonable adjustments in place. The extent of the new claim was not therefore clear in any event. Whilst the Respondent had received the statement in February 2026, the Claimant had not made any applications.

13. On a practical level, Ms Crew also pointed out that the hearing would not be able to proceed if the application were to be allowed as none of the evidence addressed issues of disability. There would be substantial prejudice to the Respondent's witnesses if questioned about this area. The Respondent's position was that the Claimant's disabilities were not within its knowledge. Ms Crew argued that there would be little prejudice to the Claimant if the application were refused as he had other claims which he could pursue and had had ample opportunity to seek advice and to make an application to amend.

14. The Tribunal considered the submissions and refused the application to amend the claim. The Tribunal took into account that the application was to make a completely new claim or claims, relating to disability, which had not been mentioned previously. The Tribunal noted the considerable time since the events in issue, the submission of the claim and the length of the proceedings. The Tribunal concluded there would be little prejudice to the Claimant if the application were refused overall since, although he would lose the possibility of a disability related claim, the existing claims could still be pursued. The Claimant had responded to other formal requests and the Tribunal noted the passage of time since he said he had received advice in January 2026. The Tribunal considered the prejudice to the Respondent if the application were granted would be substantial. The claim was not clearly set out and so would require time to understand and identify the issues which would cause additional delay with consequent impact on the evidence. The Tribunal found, bearing in mind the balance of hardship, increased costs and delay to the current proceedings, that it would not be proportionate to allow the application and, in accordance with the overriding objective, it was refused.

15. The Tribunal also noted that the claim would have been brought out of time and did not consider that the matters put forward by the Claimant would have been sufficient to make it just and equitable to extend the time limit in any

event.

16. In his second application, the Claimant sought to exclude evidence served by the Respondent, namely an updated statement from Mr Adeyemi and additional statements from Mr Braithwaite, Mr Panezai and Mr Sacco. The Respondent stated that these had been provided in response to allegations made by the Claimant following amendments to the claim and the addition of the victimisation claim. The statements were provided to the Claimant in March 2026 and therefore he had had many months to prepare. Mr Braithwaite and Mr Panezai were both unable to attend and the Tribunal could consider what weight to give to them having heard the evidence. The prejudice to the Respondent if they were not admitted, however, would be significant.

17. The Claimant objected to the introduction of this evidence at such a late stage in the proceedings and believed it was done on purpose, "swamping him" with information at a late stage so he could not get advice.

18. The Tribunal concluded that, in accordance with the overriding objective, the statements should be admitted because they were in direct response to the Claimant's additional victimisation claim and were from individuals who were said by the Claimant to be personally involved in the issues. The Claimant had had sufficient opportunity to review the statements and prepare, would be able to cross examine one of the witnesses and to make submissions on the weight to be given by the Tribunal to the other witnesses. There was little prejudice to the Claimant in admitting them.

19. In his third application, the Claimant sought specific disclosure of "Manager Adam Rose's disciplinary records and history of behavioural training". The Claimant believed this was relevant to his claim because the Area Manager had "previously admitted that AR has a "long history" of such behaviour to non-white colleagues".

20. Ms Crew confirmed that the Respondent had made suitable searches and confirmed that no investigations were undertaken prior to 2022. There had been no subsequent investigations which were related to race or to the Claimant. Ms Crew was unable to confirm whether there were any investigations post 2022 in

respect of religion.

21. The Tribunal noted that, although the Claimant had mentioned a number of reports of poor behaviour, he had not specified anything which was based on the race or religion of another person. The Tribunal refused the application in accordance with the overriding objective as it was not considered to be proportionate to order further disclosure, which might potentially delay the case, nor was the disclosure required for a fair and just disposal of the case.

**Evidence heard and approach**

22. Subject to the provisions of section 136 Equality Act 2010 noted above, generally, it is for a Claimant to provide evidence that the acts or omissions complained of happened on the "balance of probabilities". This means that a Tribunal must consider whether it is "more probable than not" that an act or omission happened. If the probabilities are equal or the Tribunal concludes that it is not probable that an act happened, a Claimant has not proved that act or omission and the Tribunal will not consider it further.

23. The list of issues for the Tribunal to determine is set out above and in the hearing bundle at p353-354. The Tribunal only considered matters raised in that list of issues and the attached Schedule.

24. The Tribunal read the Claimant's witness statement and heard evidence, including during cross examination, from him. On behalf of the Respondent, the witnesses called were Mr Adeyemi, who at the time was the Area Manager for Archway and Kentish Town areas where the Claimant worked; Mr Sacco, a Customer Services Supervisor and supervisor of the Claimant in that role at the time; and Mr Rose who was a Customer Services Manager at the time. The Claimant cross examined each witness.

25. Having declined the Claimant's application to exclude their evidence, the Tribunal also considered the witness statements of Mr Braithwaite and Mr Panezai, who were Customer Services Managers at the time (and who are now Customer Services Supervisors) and considered the appropriate weight to be given to that evidence, in the light of the fact they were not cross examined, the other oral evidence heard and the contemporaneous documents in the hearing

bundle noted above.

26. The alleged acts and omissions fell into three broad time periods as set out in the Schedule and the key dates were: -

a. Discrimination claim - Up to and including the weekend beginning 9 October 2020 when incidents occurred between the Claimant and Adam Rose

b. Victimisation Claim - Between the Claimant's grievance against Adam Rose and its investigation around 25 October 2020 and his absence on sick leave on 25 August 2021. Noting that the Claimant raised the issue with ACAS on 2 June 2021 and with the Employment Tribunal on 10 August 2021

c. Victimisation claim - In relation to and following the Claimant's return to work in December 2021 after a period of sick leave

**Findings of fact in Discrimination claim**

27. The Tribunal considered the issues following the three-stage process set out in the list of issues: -

1 whether the act alleged happened

2 whether that act was less favourable treatment

3 whether that less favourable treatment was as a result of the Claimant's protected characteristic, in this case, race or religion

**Events prior to Friday 9 October 2020**

28. The Tribunal made the following findings in relation to acts said to have occurred prior to Friday 9 October 2020 which are set out in the Schedule.

29. On Friday 9 October 2020, the Claimant said that Mr Rose had asked him about a crossword puzzle and had gone "ballistic" when the Claimant did not get the answer. Mr Rose's evidence was that there may have been a discussion about a crossword, but he did not accept that he had shouted. The Tribunal found that there was a discussion about a crossword puzzle sometime before the weekend of 9 October 2020 but preferred Mr Rose's evidence that he did not "go ballistic" as said by the Claimant.

30. The schedule set out that on multiple occasions (approximately 10)

between October 2019 and October 2020 Mr Rose had made comments about the Claimant's name, making remarks such as "why can't [the Claimant] have a normal name" and that people should only have "a first and last name". The Claimant, in his statement, said that Mr Rose had mocked his Muslim name but did not provide any detail in relation to specific conversations about his name, save in relation to the familiarisation session during the weekend of 9 - 11 October 2020 which is discussed below. The Tribunal was unable to find that the Claimant had proved these acts on the balance of probabilities.

31. The schedule also set out that Mr Rose shouted at the Claimant during the weekend of 9/10 October about his shoelaces being undone. In cross examination, the Claimant's evidence was that this occurred well before the 9/10 October weekend. He also gave evidence that Mr Rose did not wear appropriate track safety shoes and Mr Rose had not shouted at someone who had been wearing trainers. In his witness statement, Mr Rose accepted that he had told the Claimant on a number of occasions to speed up as the Claimant often lagged behind and was not ready to start his shift on time. He accepted he may have been frustrated and had sworn eg "put your f***ing shoes on" but did not accept that he had shouted uncontrollably or that it was related to the Claimant's protected characteristics. The Tribunal found that Mr Rose had spoken to the Claimant on two occasions in relation to his shoes – once using inappropriate language to tell the Claimant to put his shoes on and once telling him to do up his shoelaces.

32. The Tribunal considered whether the conversation about the crossword and the two incidents relating to the Claimant's shoes were less favourable treatment. There were no direct comparators named in the schedule and so the Tribunal considered if the Claimant was treated worse than a hypothetical comparator would have been treated. The Tribunal considered that Mr Rose would have treated any other employee in the same way, namely in animatedly discussing a crossword and ensuring employees started their shifts on time with their shoes done up, even using inappropriate language. The Tribunal therefore concluded that these acts were not less favourable treatment.

**Events of the weekend of Friday 9 October to Sunday 11 October**

33. The Tribunal considered in detail the events of the weekend of Friday 9

October to Sunday 11 October 2020. There were different versions of the events of that weekend in the evidence from the Claimant and from Mr Rose and in the contemporaneous documents created during the investigation of the events. There were a number of inconsistencies or mistakes in the Claimant's statement which he said were mistakes because he had been inundated with emails and was unable to recall the documents. During his evidence, he said that he was unable to recall the detail of documents which he had had since March and did not know or understand all of the processes around these events because of his disabilities. Although apparently involved in the events, the Tribunal noted that Mr Braithwaite's statement did not address them.

34. The Tribunal considered in detail the documents in the hearing bundle, particularly: -

a. 20 October 2020 email to Mr Adeyemi from another of the Respondent's employees (p151)

b. 25 October 2020 email to Mr Adeyemi from the Claimant (p153)

c. 29 October 2020 email to Mr Adeyemi from Mr Rose (p155)

d. 17 December 2020 fact finding meeting by Mr Ugboma with the Claimant (p161)

e. 7 January 2021 fact finding meeting by Mr Ugboma with Mr Rose (p164)

35. The schedule noted "9/10 Oct 2020 "Friday night" - "At Highgate Station: AR said "he does not want [C] at this station the next night (Saturday) and [C] must swap with a white colleague at another station (Archway) called [MC]". It also noted 10/11 Saturday night 2020 "AR allegedly ordered a swap at Highgate between C and a white colleague from Archway with no operational justification for the swap. In fact, C was already doing overtime at Highgate on 10th October 2020 prior to shift start and AR bullied me out of my allocated shift at Highgate and sent C to Archway as AR wanted to work with white colleague called [MC] AR has always been against coloured people." (Note: the name on the schedule has been replaced with initials MC.)

36. The Claimant's witness statement evidence was that he was ordered by Mr Rose to leave Highgate for Archway station so Mr Rose could work with a white colleague. The Claimant was working overtime at Highgate from 8-11pm

and then due to continue with his normal shift from 11pm to 7am. He had to dash from Highgate to Archway to make the change. He did not want to change his shift. There was no mention by Mr Rose of needing to meet with MC to discuss pensions which was the reason given by Mr Rose for the shift swap..

37. Mr Rose's witness statement in summary, said that on Friday evening, the Claimant had called the office and said he was running late for his shift and it was then that he asked the Claimant to swap shifts so he could speak to MC. The Claimant had agreed and said it would work well because he was due to do overtime at Archway on the evening of 10 October. Mr Rose said he confirmed the arrangements when the Claimant arrived at Highgate that evening. He does not set out any contact on Saturday evening at Highgate Station.

38. There were three emails to Mr Adeyemi in relation to the incident. The Claimant's email (p153/4) set out that when he arrived on the Friday evening at Highgate, Mr Rose told him to work at Archway on Saturday, without giving a reason. The Claimant told him he had overtime at Highgate from 7-11pm. Mr Rose had said he should do the overtime and then travel to Archway. The Claimant said Mr Rose "does have lot of venom for me" and was "obsessed with my name and why I have so many".

39. Mr Rose's email (p155/6) reflected his witness statement but added that, when they opened the station in the morning, he realised the Claimant's overtime was at Highgate not Archway. He had pointed this out and confirmed that the Claimant was still happy to change shifts. He also added that he had spoken to Mr Braithwaite on Thursday 8 October to confirm that it would be OK to swap shifts between the Claimant and MC on Saturday 10th to which he agreed.

40. The last email was from a colleague who spoke to the Claimant at the end of his shift on the morning of Saturday 10 October (p151/2). The Claimant had told him that that Mr Rose had shouted at him for being at Highgate the evening before and had called Mr Braithwaite to send MC to Highgate, which Mr Braithwaite refused to do.

41. There was an investigation into the incident by Mr Ugboma and interviews with the Claimant and Mr Rose were in the hearing bundle (p161 and 164). On

17 December, the Claimant told Mr Ugboma that on Friday 9 October, Mr Rose had told him to work at Archway on the Saturday evening. The Claimant had told him then that he was booked to do overtime at Highgate between 7-11pm. On Saturday 10 October, Mr Rose told the Claimant to leave Highgate around 10.30pm to go to Archway and he saw the other staff member on the platform as he left. He was upset and the CSM at Archway informed the Area Manager. The Claimant told Mr Ugboma that he was concerned for the safety of others because Mr Rose was unpredictable, aggressive if challenged or questioned, had sworn and shouted at him (about put his shoes on, signing in and during his familiarisation) and had commented on the Claimant having so many names, "he is always going on about my names why do I have so many and why can't I just have two". However, the Claimant also stated that he was concerned about Mr Rose's mental health, that he needed help and was concerned for safety.

42. On 7 January, Mr Rose told Mr Ugboma that he was looking into AVCs for his pension and wanted to speak to someone at Archway who knew more about it. On the Friday, he had asked the Claimant to swap shifts, on Saturday, and the Claimant had agreed as he was working overtime there in any event. On Saturday evening, the Claimant was already at Highgate when he got there and then the claimant made his way to Archway. He could not recall anything else happening on that day. He agreed he had asked the Claimant about his names to record on the file during the station familiarisation. He also said he could be quite vocal to put his point across but was not threatening or aggressive. He wanted to apologise and had been unaware of how the Claimant was feeling.

43. The Tribunal also heard evidence about acts that happened during the shift of Friday 9 to Saturday 10 October and their findings are noted below.

44. The Tribunal found there was conflicting evidence as to the sequence of events leading up to the change of shift. Having considered all of the evidence, the Tribunal found that the following events occurred: -

a. On Friday 9 October, Claimant was scheduled to work at Highgate Station from 11pm.

b. The Claimant attended Highgate for his normal shift on Friday. Mr Rose was upset and called Mr Braithwaite at Archway who refused to allow the Claimant to travel to Archway to do his duty there. Mr Rose told

the Claimant to go to Archway on Saturday.

c. Mr Rose then took the Claimant on his familiarisation of the station. When filing the form to confirm that the familiarisation had been completed, there was discussion about the Claimant's name. The Tribunal considered whether this was a friendly "cultural discussion" as put forward by Mr Rose or was bullying and belittling as set out by the Claimant. As there were only two people present, with conflicting versions which were provided, we were not satisfied on the balance of probabilities that the conversation happened as alleged by the Claimant.

d. The Claimant spoke to a contractor who was working at the station that evening as he was interested in the work being done. Mr Rose then told the Claimant that he was "blowing bubbles up the contractor's a**e". This was inappropriate language used to the Claimant.

e. The Claimant was visibly distressed by the events that evening, so much so that another Customer Service Manager (the Claimant's line manager) coming on duty on Saturday morning at Highgate saw fit to report it and to check in on the Claimant the following day (Sunday).

f. On Saturday, the Claimant attended Highgate to do booked overtime from 7pm to 11pm at Highgate and to stay to do his normal shift at that station from 11pm to 7am Sunday morning.

g. When Mr Rose attended at 11pm, he shouted at the Claimant asking him why he was there and made him travel to Archway at 11pm to do his normal shift at the end of his overtime.

h. As a result of the Customer Service Manager's concern, Mr Adeyemi, the area manager, opened a grievance, sought evidence via email and then opened an investigation, for which the Claimant and Mr Rose were interviewed.

i. The Tribunal noted that Mr Braithwaite and other staff who were present during these events were not spoken to as part of the fact-finding investigation.

45. The Tribunal considered whether the use of inappropriate language in relation to the contractor, conversations about the Claimant's name and the change of shift were less favourable treatment of the Claimant by Mr Rose. The schedule did not name any specific comparators and therefore the Tribunal considered if the Claimant was treated worse than someone else would have

been treated. Having heard the Claimant and Mr Rose, and considered the contemporaneous notes of the incident, the Tribunal concluded that these acts were not less favourable treatment and that Mr Rose would have treated another employee in the same circumstances in the same way.

46. Overall, therefore, the Tribunal concluded that none of the acts alleged by the Claimant were less favourable treatment.

47. The claims of discrimination on grounds of race and religion were not well founded and were therefore dismissed. Having dismissed the claims, the Tribunal did not proceed to consider the issue of time limits.

48. The Tribunal noted that, even if the Claimant had been able to show he had been treated less favourably, the next question for the Tribunal was whether that treatment was due to his race or religion. The Tribunal found no evidence to substantiate that proposition. The Claimant stated in cross examination that he had "been pushed around" because of his disabilities and it was after his supervisors realised they could push him around that the race and religion issues came about. He agreed that it was only his own deductions or theories which had led him to that conclusion and that no-one had told him that was what had happened. The evidence from the documents and witnesses for the Respondent did not support the Claimant's evidence. The evidence was insufficient for the Tribunal to decide, without any other explanation, that the less favourable treatment was due to discrimination on the ground of the Claimant's race or religion.

**Victimisation**

49. The Tribunal considered the list of issues in relation to the claim of victimisation and considered the following matters: -

1 whether the Claimant had done a protected act in raising a grievance in October 2020 and/or making his claim to the Employment Tribunal in August 2021

2 whether the Respondent did the acts set out in the Schedule

3 whether those acts were detriments to the Claimant

4 whether the Respondent did so because the Claimant had done a protected act

**Protected Act**

50. The Tribunal found that the complaint in October 2020 in relation to Mr Rose's treatment of the Claimant was a protected act due to the protected characteristics of race and religion. The Respondent agreed that the claim made to the Employment Tribunal in August 2021 was a protected act.

51. The Tribunal made the following findings of fact in relation to the acts and omissions specified in the schedule.

**17 July Covid isolation incident**

52. In his witness statement (p4), the Claimant asserted that Mr Panezai "fit me up with false charges of Covid Government alert issue". He also asserted that Mr Panezai, Mr Adeyemi and Mr Braithwaite "ganged up" on him and made him sign a memo they drafted to get the matter over and done with, rather than one drafted by his union. He said that signing this put him at risk of disciplinary action.

53. In his witness statement, Mr Panezai said that the Claimant had told him he had been pinged by the NHS app and asked when he could go home. They went into the office and the Claimant then told him it had been a joke. He added that, after the Claimant left, the contractor had told him how the Claimant had bragged about being able to take 10 days' leave if he was told to self-isolate because he was pinged by the NHS app. Mr Adeyemi's statement referred to the various emails that he had received on this matter and Mr Braithwaite, though not directly involved, recounted hearing a similar version of events as did a Customer Services Manager at Kentish Town. Mr Adeyemi stated he did not draft a memo for the Claimant.

54. The key documents relating to this incident were noted as follows:-

a. p326 – A record of conversation noting that the Claimant said he had been pinged and needed to isolate and later said it was only a joke.
b. p177- email 20 July from Mr Panezai to the Claimant requiring completion of a memo about "verbally reporting sick with a need for Covid related isolation, then retracting that report"
c. p176 A response from the Claimant saying the memo was in hand, he was speaking to his union, and asking whether the contents should just cover

the charging a customer phone, closing the station or just “Covid stuff”

d. p181 – 24 July in which Mr Pittorou, the Claimant’s manager, relays a conversation with the Claimant during which he explained the purpose of the memo.
e. p182 – 24 July Mr Braithwaite refers to a conversation with the Claimant in which he has two versions of the requested memo.
f. p328 – an email from the Claimant on 24 July apologising for the misunderstanding of his joke.
g. p186 an email dated 2 August 2021 from a CSM at Kentish Town which refers to this incident and the Claimant’s account of it.

55. When cross examined, the Claimant said that he had been talking to a contractor and explaining that, if you were pinged on the NHS app then you would have to leave work. He said Mr Panezai had turned the whole thing around and he, the Claimant, would not have reported sick because you would have to have proof. Mr Panezai was lying.

56. The Tribunal found the Claimant’s answers in cross examination were inconsistent. Although they had not heard Mr Panezai give evidence or be cross examined, his account was supported by the contemporaneous documents and the evidence of Mr Adeyemi. The Tribunal found that the Claimant did tell Mr Panezai that he had been advised to isolate for Covid and later retracted it as a joke. The Claimant was asked for a memo in relation to the incident and later provided one accepting that he had said this as a joke. This was not written for him by any of the Respondent’s witnesses.

**Charging a customer's phone**

57. In his witness statement (p4), the Claimant said that Mr Panezai had falsely accused him of charging a customer’s phone and that he would be punished, that he had made a complaint against Mr Rose and there would be consequences if he stepped out of line.

58. Mr Panezai in his witness statement (paragraph 5) stated that it was the Claimant who had told him he had charged a customer’s phone in the supervisor’s office. Mr Panezai had advised him that this was not an appropriate thing to do as it assumed responsibility for the property and was also inadvisable

as Covid was still prevalent at the time.

59. In cross examination, the Claimant said Mr Panezai was lying in his statement as he was desperate to get a memo from the Claimant, to get him for anything.

60. Although the Tribunal had not heard Mr Panezai give evidence or be cross examined, they preferred his evidence to that of the Claimant and found that the Claimant had charged a customer's phone, that he told Mr Panezai about it and Mr Panezai told him that this was not advisable.

**Closing a station on the night of 16/17 July**

61. In his witness statement (p4), the Claimant asserted that Mr Panezai had falsely accused him of closing a station unnecessarily. He stated that at the time, there had been an incident when a man assaulted someone at Archway station, and he had asked the controller to close the station while the incident was dealt with. In cross examination, the Claimant referred to this incident.

62. In his witness statement, Mr Panezai stated that the Claimant told him that he had closed the station without telling his supervisor. Mr Panezai later found out that there had been an incident and that the Claimant had called the controller.

63. There were two documents relevant to this matter:-

a. On 15 October 2021 Mr Panezai wrote an email to Mr Adeyemi in response to a request for comment on matters relating to this claim. The email states that there was an incident when the Claimant had closed and locked a station while a passenger was still in there. The gates were closed and locked and the passenger was unable to get out.

b. The incident is recorded (p326) as occurring at 1.14 am when a man walked up from the platform because the escalator had been switched off. The CSA was asked if he had checked the platforms and he said no.

64. The Tribunal found there were two occasions when the Claimant closed a station. One was at Archway when he closed it because of an incident after speaking to the controller and the second was when he closed a station without

checking the platforms and a passenger was still in the platform area. No action was taken against the Claimant for either matter

**July 2021 Lost Property**

65. In his witness statement (p4), the Claimant refers to the procedures he was taught for dealing with lost property, namely, not to log the item to save completing any paperwork. He also dealt with this extensively in cross examination, explaining that several managers had told him not to follow the written process.

66. Mr Sacco set out the "strict" process for logging lost property in his witness statement, namely, to log it on the internal system, obtain the lost property reference number and to inform the supervisor. He stated that he had never told the Claimant or other colleagues not to follow that process. Under cross examination, he maintained that position. He also explained that he had conducted an investigation and that the Claimant was disciplined in June 2022 for failing to deal with lost property appropriately after his return from sick leave.

67. The hearing bundle contained an email (p188) dated 30 July 2021 from a CSM at Kentish Town recalling that the Claimant had told her about returning a phone to a customer.

68. The Tribunal preferred the evidence in the email and Mr Sacco's evidence that the process for lost property always required logging the item and issuing a receipt. The Tribunal found that the Claimant had returned a phone to a customer without following the proper process.

**August 2021 Making a difference Award**

69. The Claimant was nominated for this award in August 2021 when he offered to assist at Highbury station on his way home to avoid it being closed. In his witness statement (p1), the Claimant asserted that this award was withheld by Mr Adeyemi as retaliation and because he was "a disgrace to the team". In cross examination, he stated that he had been promised a substantial payment for assisting and he would have stayed for the whole shift but could not be specific about the amount or who had told him. The Claimant said he had not received any vouchers and had been paid for 2 hours.

70. In his evidence, Mr Adeyemi explained that, although he had initially refused the award on the basis that the Claimant had been paid overtime for his actions, he then approved the vouchers on 11 August 2021. He noted he was a budget holder and had to check.

71. The Tribunal found that the Claimant did assist at Highbury station but had misunderstood what he might receive by way of financial reward for this action. The Tribunal accepted Mr Adeyemi's evidence that the Claimant was paid overtime for the hours worked and he added vouchers as a Making A Difference Award. After approval, it was an automatic process to allocate the vouchers to the Claimant via a different system. The vouchers then needed to be claimed or redeemed by the Claimant. Mr Adeyemi was not involved in ensuring the Claimant received the vouchers. The Tribunal found the Claimant did not collect them due to his absence on sick leave.

**December 2021 Return to work Schedule**

72. The Claimant went on sick leave in August 2021. He was certified fit to return at the start of December 2021 (p203). His GP notes suggested a phased return of 4 hours for each of the first 3 weeks, 5 hours in week 4, 6 hours in week 5 and then a return to full time (p324).

73. However, in an email from Mr Adeyemi on 13 December (p219), the Claimant's return to work was set out (p219) as starting on 17 December on 5 hours each week, increasing by 1 hour each week for 3 weeks until he was at full hours. The Claimant's evidence was that Mr Adeyemi was calling him on a daily basis, that the claimant had not agreed to this return to work pattern and that he had been pressured to come back. Mr Adeyemi, in cross examination, did not accept that he had pressured the claimant and said that this pattern was discussed with the Claimant and agreed by him. Mr Adeyemi also noted that at the time the Claimant was living in Leicester and travelling was very expensive.

74. In discussing his return to work, the Claimant advised Mr Adeyemi he was keen to return to work as soon as possible. On the 17 December, his return-to-work interview (p220) noted that he would work 5 hours per shift in the first week, increasing by 1 hour each week for a maximum of 4 weeks, though he would be

on leave in the second week. An email from his supervisor at the end of that day, Mr Braithwaite, stated that the Claimant had queried that he should only be doing 4 hours a week not 5 hours on two nights a week. He was advised to raise this with Mr Adeyemi (p365)

75. . The Tribunal preferred Mr Adeyemi's evidence on this point and found that the Claimant agreed to the phased return set out in the email of 13 December (p219), even though he queried it on his first day.

**June 2022 Redeployment to CSA 2**

76. In his witness statement, the Claimant said that all relevant medical records had been provided. Mr Adeyemi had harassed and "barraged" him and had not supported him, despite his disability which prevented him from understanding the processes. He considered he had been demoted as a result of his protected acts.

77. In August 2021, the Claimant self-reported that he had had a schizophrenic episode when he went on sick absence. Due to this illness and the need to identify the medication he was receiving, the Claimant was not able to return to CSA1 duties until the medical position was clarified. The Occupational Health team requested medical records from his GP on a number of occasions. On 26 June 2022, in the continued absence of additional medical evidence, the Claimant was redeployed to CSA2 which resulted in lower wages and different duties from that date. In cross examination, the Claimant maintained that the GP had answered all of the questions required.

78. The Tribunal considered the Occupational Health reports and email exchanges with the Claimant's GP practice as follows

    a. 31 Jan 22 GP Occupational Report (p227) which referred to work stress related depression and noted they did not have access to the full medical records. There were no records of the prescribed medication.

    b. Email to Mr Adeyemi dated 23 February 22 confirming receipt of the GP report of 31 Jan, noting that information was missing, that further information had been requested on 16 February and no reply had been received(p244)

    c. Email from the GP dated 18 May 2020 to Occupational Health

Reports confirming that the information provided was up to date and there was no new information (p248)

d. Email to Mr Adeyemi of 26 May 2022 noting that the GP had answered only one of the questions and had not addressed what had occurred in August 2021 and the medication the Claimant was prescribed

e. Case conference notes of 24 May (p249),17 June (p261) and 24 June (p299) at which the issues are set out and discussed, including suggestion by the Claimant that his GP has answered all of the questions and that someone is scaring London Underground Occupational Health to ”not decide” and that people want him out of the area. (p263)

79. The Tribunal found that the London Underground Occupational Health team were unable to confirm the diagnosis and the medication which was prescribed for the Claimant at the time of his absence from work in August 2021 when he stated he had had a schizophrenic episode. As a result of his self-declaration of this illness, there were substantial and serious concerns about the Claimant’s ability to complete safety related duties as a CSA1. It was not possible to resolve those concerns without confirmation from his GP about the cause of the Claimant’s absence and details of any medication prescribed. The Claimant was therefore, on that basis, unable to continue with CSA1 duties. There was no evidence that Mr Adeyemi had interfered, or had even tried to interfere, in the Occupational Health process.

**January 2022 Incident re a catholic employee**

80. The Claimant denied that the incident took place and said it was oppressive to ask him to make a statement about it.

81. In January 2022, a colleague approached Mr Sacco to report an incident on 22 January 2022 in which the Claimant had made inappropriate comments in relation to the colleague being catholic. Mr Sacco had told that person to report it which he did by email on 7 February 2022 (p332), but the individual did not wish to make a complaint.

82. The Claimant was asked about this incident on 11 February 22 when he attended a Temporary Alternative Duty (TAD) review with Mr Adeyemi. The Claimant agreed that he had spoken to the colleague but did not agree that he

had used offensive language. He was asked for a statement for an investigation (p240). The statement was provided by him in an email on 26 February when he denied using the offensive language. (p333)

83. The Tribunal found that there was an incident and that the Claimant was requested to make a statement in February 2022 which was the first opportunity to ask him. The Tribunal considered the request to provide a statement to be an appropriate request in the circumstances.

**Other matters**

84. The remainder of the allegations made by the Claimant as acts of victimisation set out in the Schedule are very general in nature. In his evidence and in cross examination, the Claimant said that he had been warned about the consequences of making complaints, he had been told that the employment was like the army and he should toe the line, and that he was not wanted in the group anymore. He said that he did not receive his breaks, was not able to make tea, had his prayers interrupted, was not given the perks of the job (such as being in warm rather than cold areas of the station), was not allowed to start late or leave early (known as cutaways), and had had his overtime reduced.

85. In contrast, the Respondents' witnesses denied that these things were said or done and explained that cutaways in particular were not allowed on safety grounds.

86. The Tribunal generally accepted that it may be difficult for a litigant in person to recall the detail of specific incidents or their dates. However, the Tribunal found that the Claimant's evidence amounted to only broad assertions that these things happened and lacked basic detail as to times, dates, people involved or locations of events ie stations where the events occurred. The Tribunal found that there was insufficient, reliable evidence which passed the threshold for the Tribunal to find that, on the balance of probabilities, these things happened in the way alleged by the Claimant or at all.

**Detriment**

87. Having made their findings of fact, the Tribunal considered that, of the incidents identified above, the following were capable of amounting to a

detriment: -

a. The Claimant being asked to make a statement about the Covid incident by Mr Panezai in July 21

b. The Claimant being investigated for not following lost property procedures by Mr Sacco in July 21 and being given a written warning in June 22 for not following the proper procedure

c. The Claimant being asked to make a statement about his comment to a Catholic colleague by Mr Adeyemi in February 22

d. The Claimant being redeployed to CSA 2 by Mr Adeyemi in June 22

88. The Tribunal considered whether those detriments were because of one of the protected acts by the Claimant. In other words, whether there was a causal link between these events and either the complaint against Mr Rose in October 2020 and/or the filing of his Employment Tribunal claim in August 2021.

89. The Tribunal found that, whilst Mr Adeyemi was clearly aware of the detail of the grievance against Mr Rose, it was not likely that Mr Sacco, Mr Panezai and Mr Braithwaite knew about the details of the grievance, although they would have been aware that the Claimant and Mr Rose were not working together.

90. The Tribunal found that Mr Adeyemi and Mr Panezai knew about the Employment Tribunal claim in October 2021 and Mr Sacco and Mr Braithwaite were aware of it in October 2022 after the case management hearing.

91. The Tribunal concluded that the detriments relating to the request for a statement about the Covid incident by Mr Panezai in July 2021 and the investigation by Mr Sacco for failure to follow lost property processes in July 2021 had not come about because the Claimant had done either protected act. This was because Mr Panezai and Mr Sacco were not aware of the detail of the complaint in 2020 and the events occurred before the Employment Tribunal claim. In any event, they were not aware of the Employment Tribunal Claim until at least October 2021.

92. Mr Adeyemi was aware of the complaint in October 2020 and the issue of ET proceedings in August 2021. The Tribunal accepted the evidence of Mr Adeyemi that the request in February 2022 for a statement in relation to

comments about a catholic colleague and the Claimant's redeployment as a CSA2 in June 2022 and were caused by the need to investigate a potential incident and to ensure appropriate safety standards respectively. The Tribunal found that these events had no causal link to the protected act or acts.

93. The claim of victimisation was therefore not well founded and was dismissed.

Approved by:

Employment Judge Shrimplin

4 November 2026

SENT TO THE PARTIES ON
4 November 2026

FOR THE TRIBUNAL OFFICE

**Notes**

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

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