



EMPLOYMENT TRIBUNALS

Claimant: Dr M Rana

Respondent: University of Wolverhampton

Heard at: Birmingham

On: 9, 10, 11, 12, 13 & 17 October & (in chambers) 14 & 16 November 2023

Before: Employment Judge Flood
Ms S Campbell
Mr K Palmer

Representation

Claimant: In person

Respondent: Mr Maini-Thompson (Counsel)

RESERVED JUDGMENT

The complaints of constructive unfair dismissal (contrary to section 94 Employment Rights Act 1996 ('ERA'); direct race discrimination and direct discrimination on the basis of religion/belief (contrary to s 13 Equality Act 2010 ('EQA')) are not well founded and are dismissed.

REASONS

The Complaints and preliminary matters

1. By a claim form presented on 2 June 2022 (following early conciliation between 31 May and 1 June 2022), the claimant brought complaints of unfair (constructive) dismissal and direct race discrimination and direct discrimination on the basis of religion/belief. The claim was part of a multiple claim alongside complaints brought by Dr M Saini ('MS').
2. There was a preliminary hearing for case management before Employment Judge Broughton on 8 December 2022 (see case management order at pages 32-37). Judge Broughton ordered that the claim be heard separately from the claim of MS as there was little overlap

in the claims brought by each. Particulars of the complaints the claimant wished to make were discussed and recorded in a draft list of issues appended to the case management order. The claimant was ordered to provide further particulars of the acts he wished to rely upon in respect of the various complaints which were subsequently provided (pages 41-47).

3. At a further preliminary hearing for case management before Employment Judge Stewart on 7 September 2023, the list of issues was finalised, and a separate document headed 'List of Issues' and was in front of the Tribunal at the start of the hearing. At the end of Day 2 of the hearing and whilst giving his evidence, the claimant asked to amend his claim. In relation to the issue identified at paragraph 3.2.4.1, the claimant wished to change the date to read 'December 2021 until February 2022' rather than 'November 2021'. The Tribunal considered this overnight and gave its decision on Day 3 to allow the claimant to amend his claim to change the date to read December 2021 but not to extend the allegation to cover the longer period of January and February 2022. The balance of prejudice weighed more heavily against the respondent in respect of this amendment given that it was so late in the proceedings and that evidence had been prepared based on the original allegation, not a much extended period. The claimant applied for the Tribunal to reconsider this decision and made a further application to amend allegation 3.2.5.1 to refer to the same period December 2021 until February 2022. The Tribunal determined that it was not in the interests of justice to reconsider its original decision. It decided to grant the claimant's amendment in relation to allegation 3.2.5.1 to the extent that the date be amended from October 2021 to 4 February 2022. This was on the basis that this was the date that the request being referred to in that allegation was made (see pages 162-3 of the Bundle). The respondent had prepared on this basis and had suffered no prejudice by this amendment.
4. The final list of issues as determined by the Tribunal following the various applications made ("LOI") is now set out below (with amendments agreed shown in bold and strike out text) and referred to throughout the hearing.
5. An agreed bundle of documents was produced for the hearing running to 276 pages ('Bundle') and where page numbers are referred to below, these are references to page numbers in the Bundle. The claimant had also produced an additional bundle of documents of 67 pages ('C Supplemental Bundle'). On Day 1 of the hearing the respondent made an application to admit additional documents, namely 3 e mails that had been sent/received by one of its witnesses, Dr P Hampton ('PH'). Those e mails had been retrieved by PH from an old laptop and had only come to light over the weekend before the hearing. The claimant had no objection to the admission of those e mails and as they had some relevance to the issues in dispute and did not appear to cause any major prejudice, the Tribunal admitted such documents which were referred to as E Mail 1; E Mail 2 and E Mail 3 respectively.

6. On Day 2 of the hearing, the respondent's counsel, Mr Maini-Thompson made an application to admit a slightly amended witness statement on behalf of PH. Mr Maini-Thompson explained that having reviewed his statement, PH wanted to adjust his statement to reflect the fact that he could not now rule out having a conversation that had been alleged by the claimant. Again, the claimant did not object to the proposed change provided that the changes could be shown in redlined text. Accordingly, the Tribunal gave permission for this statement to be admitted. The claimant also made an application on this day firstly for some document relating to the claimant's complaint to the Information Commissioner's Office ('ICO') to be admitted. The respondent did not object and the 8 pages were admitted ('ICO correspondence'). The claimant also made an application on Day 2 for the Tribunal to make an order requiring the respondent to disclose certain information, namely all documents created by a number of named employees at the respondent during the investigation into the claimant's grievance and all e mail correspondence between those individuals about his case. The claimant alleged that he had made such a request to the respondent as part of his subject access request ('SAR') which had been refused and had later asked for a more focused request to be complied with. The respondent's position was that it had complied with its disclosure obligations already and that all relevant documents had been disclosed and were already in the Bundle. It contended that the claimant's application was a 'fishing expedition' as some of the individuals named were not directly relevant and to search all correspondence involving these individuals for a period of 8 months was disproportionate. After some discussion and consideration the Tribunal ordered that the respondent disclose all e mail correspondence and documents passing between the respondent's Equality, Diversity and Inclusion ('EDI') Consultant, Mr S Singh ('SS'); its Employment Relations Manager at the time, Ms A Roberts ('AR') and its Dean of the Faculty, Professor D Proverbs ('DP') relating to the drafting of the investigation report by SS between the period 1 July 2022 and 20 September 2022. We determined that it was not proportionate, relevant, or necessary to the fair disposal of the proceedings for any wider order to be made. On Day 3 of the hearing the respondent provided an e mail from Ms S Waters, its Chief Operating Officer confirming that the three named individuals did not have any e mails related to this period. It was pointed out to the claimant that he was at liberty to ask each of the individuals concerned (who all attended as witnesses) about the absence of such e mails if desired as part of his cross examination.
7. We also had a Cast List and Chronology. The Tribunal has used the initials of various individuals as they are defined above, in the LOI and findings of fact set out at paragraph 6 below.

The Issues

8. The issues to be determined by the Tribunal were as follows:

1. INTRODUCTION

- 1.1 The Claimant is pursuing claims of:
 - 1.1.1 Direct race and/or religious discrimination contrary to sections 9, 10(1) and 13 of the Equality Act 2010 (“EqA 2010”); and
 - 1.1.2 Constructive unfair dismissal contrary to sections 94(1) and 95(1)(c) of the Employment Rights Act 1996 (“ERA 1996”)

2. JURISDICTION/TIME LIMITATION ISSUES

- 2.1 Bearing in mind the effects of ACAS early conciliation, any act or omission which took place before 4 February 2022 is potentially out of time, so that the tribunal may not have jurisdiction.
- 2.2 Which, if any, of the Claimant’s complaints under the EqA 2010 (and listed at paragraph 3.2.1 to 3.2.10) are prime facie out of time in accordance with ss. 123(1)(a) and 140B of the EqA 2010?
- 2.3 In respect of any complaints that are out of time, do they form part of a continuing act, i.e. “conduct extending over a period” which amounts to either an ongoing situation or a continuing state of affairs in accordance with s. 123 (3)(a) EqA 2010? If so,
 - 2.3.1 What was the conduct; and
 - 2.3.2 When did that period end?

3. IF THE COMPLAINTS WERE NOT SUBMITTED IN TIME, WAS ANY COMPLAINT PRESENTED WITHIN SUCH OTHER PERIOD AS THE TRIBUNAL CONSIDERS TO BE JUST AND EQUITABLE IN ORDER FOR IT TO EXTEND TIME IN ACCORDANCE WITH S. 123(1)(B) EQA 2010? DIRECT RACE AND/OR RELIGIOUS DISCRIMINATION CONTRARY TO SECTIONS 13 OF THE EQA 2010;

- 3.1 The Claimant identifies as an Asian Pakistani Muslim.
- 3.2 Has the Respondent subjected the Claimant to the following treatment falling within section 39 EqA 2010, namely:
 - 3.2.1 Did the Respondent micromanage the Claimant’s start times? Namely:
 - 3.2.1.1 Did PH require the Claimant to arrive at work before 08.00 and leave after 17.00 during his probationary period in 2018~~9~~?
 - 3.2.1.2 Did PH notify the Head of School (in 2019), Professor M Arif (‘MA’), about the Claimant’s late arrivals and was the Claimant issued with warning during his probationary period as a result?
 - 3.2.2 Did the Respondent require the Claimant to work more than his contracted 35 hours per week? Namely,

3.2.2.1 Did PH force the Claimant to work more than 45 hours per week during his probationary period in 2018?

3.2.3 Did the Respondent provide the Claimant with an excessive workload? Namely,

3.2.3.1 is the Claimant's assertion that he was forced to mark assignments over the weekend for one semester correct and when he refused to do so, he was allocated an unfair workload beyond his ability and capability?

3.2.3.2 Was there continued interference with the Claimant's workload by PH?

3.2.4 Did the Respondent require the Claimant to work on weekends and/or whilst he was on sick leave? Namely:

3.2.4.1 Did PH force the Claimant to work in ~~November~~ **December** 2021 whilst he was on annual leave in order to obtain medical treatment in Pakistan?

3.2.4.2 Subsequently, upon contracting Covid-19 in November 2021 and being placed on sick leave, did PH force the Claimant to work during that period?

3.2.5 Did the Respondent halt the Claimant's research funding? Namely,

3.2.5.1 Was the Claimant required to contact PH whilst he was on sick leave in ~~October 2021~~ **on 4 February 2022** to discuss the pausing of a payment process for one of the Claimant's research projects?

3.2.5.2 Did PH intentionally delay submitting the reports and approving the expenses for the Claimant's 2019-RLWK11-10237 research project by 3 months?

3.2.6 Did the Respondent delay the Claimant's grievance process? Namely,

3.2.6.1 Did the Respondent delay in beginning to investigate the grievance raised by the Claimant in February 2022?

3.2.6.2 Was the Claimant's grievance delayed following the Claimant raising concerns regarding the appropriateness of DP being appointed as the investigating officer?

3.2.7 Did the Respondent violate the contract with the Claimant's funder? Namely,

3.2.7.1 In November 2021, did PH spend the Claimant's grant money on banners and zap stands for use by the School in violation of the terms of the funder's contract and the Respondent's internal procedures?

3.2.8 Did the Respondent delay in completing the Claimant's paperwork for one of his research projects? Namely:

3.2.8.1 Did PH intentionally delay submitting the reports and approving the expenses for the Claimant's 2019-RLWK11-10237 research project by 3 months?

3.2.9 Were the Claimant's BAME colleague prevented from attending the claimant's research events? Namely:

3.2.9.1 Did PH prevent the Claimant's BAME colleagues from attending the Claimant's research workshops/events?

3.2.9.2 Did PH shout at two of the Claimant's BAME colleagues and say that "it won't happen under my watch?" in reference to attending the Claimant's research workshops/events?

3.2.10 Was the Claimant forced/pressurised to write PH's name on the Claimant's publications and research grants?

3.3 If so, does the above amount to less favourable treatment?

3.4 If so, has the Respondent treated the Claimant less favourably than it treated or would have treated the comparators? The Claimant relies on the following comparators:

3.4.1 White Christian colleagues for the allegations set out at paragraphs 3.2.1 to 3.2.3 above.

3.4.2 White colleagues for the allegations set out at paragraph 3.2.4 above.

3.5 If so, has the Claimant proved primary facts from which the Tribunal could properly and fairly conclude, in the absence of any other explanation, that the Respondent discriminated against the Claimant, i.e. that the difference in treatment was because of the protected characteristic of either race, religion or both?

3.6 If so, what is the Respondent's explanation? Can the Respondent prove a non-discriminatory reason for any proven treatment?

4. CONSTRUCTIVE UNFAIR DISMISSAL

4.1 What was the reason for the resignation? Did the Claimant resign in circumstances in which he is entitled to treat himself as having been constructively dismissed? (ERA 1996, s 95(1)(c), *Western Excavating v Sharp* [1978] IRLR 27) In particular:

4.1.1 was there a fundamental breach of the employment contract by the Respondent? The Claimant relies on the matters detailed in paragraphs 3.2.1 to 3.2.10 above as evidence that the Respondent breached the implied term of trust and confidence entitling him to resign.

4.2 Did the Respondent behave in the manner detailed in paragraphs 3.2.1 to 3.2.10 above?

- 4.3 If so, were any or all of these actions serious enough to amount to a breach of the implied term of trust and confidence?
- 4.4 If so, did any of these breaches, taking individually or as a series of breaches culminating in a “final straw”, amount to a repudiatory breach of contract entitling the Claimant to resign?
- 4.5 If so, did the Claimant resign in response to the breach?
- 4.6 If so, did the Claimant delay too long or otherwise affirm the contract prior to his resignation on 16 December 2022?
- 4.7 If there was a dismissal, was such dismissal fair in all the circumstances? The Respondent does not advance a potentially fair reason.

5. REMEDIES

Equality Act 2010 claims—remedy

- 5.1 What declarations, if any, as to the rights of the Claimant and Respondent would be appropriate? (EqA 2010, s 124(a))
- 5.2 What compensation, if any, should the Respondent be ordered to pay to the Claimant? (EqA 2010, s 124(2)(b)) In particular:
 - 5.2.1 what financial losses has the Claimant sustained as a result of the dismissal and any acts of discrimination which the tribunal finds to be made out?
 - 5.2.2 has the Claimant made reasonable attempts to mitigate his losses?
 - 5.2.3 what injury to feelings, if any, has the Claimant sustained?
 - 5.2.4 what personal injury, if any, has the Claimant sustained?
 - 5.2.5 did the Respondent unreasonably fail to comply with the Acas Code of Practice on Disciplinary and Grievance Procedures? If so, would it be just and equitable to increase the award of compensation? If so, by what percentage (up to a maximum of 25%)? (TULR(C)A 1992, s 207A(2))
 - 5.2.6 what interest, if any, should be added to the compensatory award?
 - 5.2.7 does the compensatory award need to be grossed up to take into account the impact of taxation?
- 5.3 What recommendations, if any, would be appropriate? (EqA 2010, s 124(2)(c))

Unfair dismissal—Remedy

Reinstatement

1. Does the Claimant wish to be reinstated? If so, is reinstatement practicable and just? If so, what should the terms of an order for reinstatement include, eg what amount should be payable as part of the order for reinstatement and by what date should the order be complied with? (ERA 1996, ss 112–114, 116)

Re-engagement

2. In the alternative, does the Claimant wish to be re-engaged? If so, is re-engagement practicable and just? If so, what should the terms of an order for re-engagement include, eg what should it say about the role, what amount should be payable as part of the order for re-engagement and by what date should the order be complied with? (ERA 1996, ss 112–113, 115–116)

Compensation

3. What basic award should be made to the Claimant? (ERA 1996, s 119)
4. Are there any grounds on which the basic award should be reduced? If so, by how much? (ERA 1996, s 122)
5. What compensatory award should be made to the Claimant, taking into account what is just and equitable in all the circumstances having regard to the loss sustained by the Claimant in consequence of the dismissal in so far as that loss is attributable to action taken by the employer? (ERA 1996, s 123) In particular:
 - 5.1 what past losses has the Claimant sustained as a result of his dismissal?
 - 5.2 what future losses is the Claimant likely to sustain as a result of his dismissal?
 - 5.3 what amount should be awarded for loss of statutory rights?
 - 5.4 to what extent, if any, did the Claimant contribute to his dismissal? (ERA 1996, s 123(6))
 - 5.5 can the Respondent show that the Claimant has not made reasonable attempts to mitigate his losses? If so, by what date and at what rate of pay and relevant benefits could the Claimant have been expected to have obtained alternative employment if such reasonable attempts had been made?
 - 5.6 should any sums be deducted to reflect payments already received by the Claimant (eg a redundancy or an ex gratia payment)?
 - 5.7 did the Respondent unreasonably fail to comply with the Acas Code of Practice on Disciplinary and Grievance Procedures? If so, would it be just and equitable to increase the award of compensation? If so, by

what percentage (up to a maximum of 25%)? (TULR(C)A 1992, s 207A(2))

- 5.8 does the compensatory award need to be grossed up to take into account the impact of taxation?
- 5.9 what is the statutory cap on the maximum compensatory award in this case? (ERA 1996, s 124)

Findings of Fact

9. The claimant attended to give evidence and called four additional witnesses: MA, Former Head of School of Architecture and Built Environment at the Respondent; MS, Former Senior Lecturer of the Respondent's; Dr Olugbenga Timothy Oldadinrin, ('OO'), Former Senior Lecturer of the Respondent's and Dr Louis Gyoh ('LG'), Respondent's Head of Department for Built Environment and the Claimant's Line Manager (who attended pursuant to a witness order). Dr Paul Hampton ('PH') the Respondent's current Head of School of Architecture and Built Environment; SS, Associate Director for Equality, Diversity and Inclusion and the Investigating Officer of the Claimant's Grievance; DP, Dean of the Faculty of Science and Engineering and the Commissioning Officer for the Claimant's Grievance Investigation and AR, the Respondent's Former Employment Relations Manager all attended to give evidence on behalf of the respondent. We considered the evidence given both in written statements and oral evidence given in cross examination, re-examination and in answer to questioning from the Tribunal. We considered the ET1 and the ET3 together with relevant numbered documents referred to below that were pointed out to us in the Bundle.
10. To determine the issues set out above, it was not necessary to make detailed findings on all the matters heard in evidence. We have made findings though not only on allegations made as specific discrimination complaints but on other relevant matters raised as background. These findings may have been relevant to drawing inferences and conclusions. We made the following findings of fact on the balance of probabilities:
- 10.1 The claimant is Asian Pakistani Muslim and worked at the respondent as latterly a Senior Lecturer in Construction Management between 11 February 2019 and 28 March 2022.
- 10.2 The respondent university is in Wolverhampton and its Faculty of Science and Engineering has 7-8,000 students and 250 staff. That Faculty was organised into four academic schools, the School of Architecture and Built Environment; the School of Pharmacy; the School of Life Sciences; and the School of Engineering, Computing and Mathematical Sciences. MA was formerly the Head of the School of Architecture and Built Environment, and that role is now carried out by PH. Within the school of Architecture and Built Environment, there were

three departments, namely Civil Engineering; the Built Environment and Architecture.

Contracts and relevant policies

- 10.3 The claimant had previously worked at the respondent as Researcher on a temporary and part time basis between 18 October 2017 and 12 December 2018 but commenced permanent employment as a Springfield Excellence Lecturer in Construction Management in the Faculty of Science and Engineering on 11 February 2019 based at its City Campus. His contract of employment was shown at pages 83-93. This included the following terms:

“This is a full-time post and its nature is such that you are expected to work such hours as are reasonably necessary in order to fulfil your duties and responsibilities. Those duties include teaching and tutorial guidance, research and other forms of scholarly activity, examining, curriculum development, administration and related activities. You are expected to work flexibly and efficiently, and to maintain the highest professional standards in discharging your responsibilities, and in promoting and implementing the corporate policies of the University.

The make-up of your duties will be determined from time to time by your Dean of Faculty in consultation with yourself, and will be reviewed regularly through the staff appraisal system. Guidelines for the determination of the duties of lecturing staff are set out on the Human Resources website; in particular, when deciding your specific duties, your Dean of Faculty shall have regard to the matters set out under heading 1.4 of those guidelines (“Factors to be taken into account”). Any dispute over duties or hours may, if not resolved in the first instance between you and your Dean of Faculty, be referred to the grievance procedure. More information about teaching hours is contained on the Human Resources website.”

The claimant agreed when asked about this that this neither specified a minimum or maximum quantity of hours that he would be expected to work.

- 10.4 From February 2019, the claimant was working a probationary period for the role of Lecturer for approximately 6 months. Whilst MA carried out supervisory duties on the research the claimant was doing, his day to day management was the responsibility of PH (the then Head of Department for the Built Environment) until July 2019. As the claimant had joined mid way through the academic year, he had no specific teaching ‘workload’ allocated to him and thus was carrying out the duties that PH developed and allocated to him around the teaching of different modules to students. MA had day to day interaction with PH as to what tasks the claimant and others would perform but the claimant generally received his instructions on teaching activities from PH. The claimant continued to

carry out the academic research tasks and projects he had already been working on (which included British Council ('BC') projects he had been involved in securing as a research assistant) which that PH had no involvement in. It was clear to us that there was, to an extent, an inherent 'tension' between the research activities that academic staff undertook and their day to day teaching responsibilities. The focus of the claimant was on the research side of his role where he had evident successes in bringing in significant amounts of BC funding. On these research projects the claimant worked closely with MA and others. PH was more focused on the delivery of teaching to students, rather than this research. Both MA and the claimant gave evidence that PH had a 'professional doctorate' rather than a PHD based on his academic achievements. It came across very strongly to the Tribunal that this led to some differences between MA and the claimant on the one hand who prioritised research, and PH who was more focused on day to day teaching and student satisfaction.

Requiring the claimant to start work at 8.00am and work until at least 5.30 pm (Issue 3.2.1.1)

- 10.5 The claimant alleges that during his probationary period that PH who he says was his line manager at the time "*required and forced him*" to start work at 8.00 am in the morning and leave after 5.30 in the evening. When asked to provide more detail about how he was 'required' and 'forced' the claimant said that whilst he did not object to a senior member of staff guiding a new member of staff about his working hours that this happened "*multiple times*" and was said "*every day*" for a period of 4-5 months. The claimant explained that he could see (as they all worked close together) that other employees in the department were coming and going at various times but no one other than him was asked to arrive at 8am. When asked to provide details about these other employees and their circumstances, the claimant said that they were white and were senior lecturers and junior lecturers like himself. The claimant was asked to describe how PH communicated to him that he was 'required' and 'forced' to work these hours. He said that when he started the role, he had been arriving for work at around 8.30/8.45 a.m. and was told by PH that he should attend work at 8am. The claimant said he thought that PH was not serious and that for the next 2-3 days he continued to arrive at the same time and on the third occasion that PH was "*furios*" with him, and this is when it was raised with MA (see below).
- 10.6 PH denied 'micromanaging' the claimant stating that academics like the claimant have flexibility about their hours and can arrange their working hours around teaching commitments. He stated that if the claimant had a lecture starting at 9am he would expect him to be in class well before that to set up and prepare before students arrive. PH had originally included in his first statement that he 'refuted' the allegation and did not recall there being any issues with the claimant's start times. When he amended

his witness statement PH said that he 'had no recollection' of any micromanagement and added that it was 'possible' he may have informed the claimant that he needed to get in early on days he had 9am lectures suggesting that the claimant had 'misinterpreted' this as requiring him to be in work every day at 9am. The claimant asked the Tribunal to view this late change of evidence with some suspicion as he contended that PH had denied for several years ever raising this and was now at this late stage acknowledging that it may have happened, which made his recollection unreliable.

- 10.7 We conclude that upon 2-3 occasions during this one week, PH questioned the claimant as to his arrival time and we accept the claimant's evidence that this culminated in the incident involving MA that we address below. We were unable to find that claimant was ever 'required' or 'forced' to start work at 8.00am in the morning at any time and the claimant's evidence falls short of enabling us to make such a finding. Moreover, the claimant did not describe any occasion at all when he says he was 'required' 'forced' or even asked to stay at work until 5.30pm. We could also not make any finding about whether any other individual working in the same or similar role was or was not required to work or even did or did not work such hours. This is because:
- 10.7.1 The claimant only provided detail about this one incident when the issue of his start times was brought to his attention by PH (which we accept took place). No details were given about when finish times were even raised with him. Other than this one event, the claimant makes generalised allegations about things happening on multiple occasions (which was a feature of his evidence on much of the events early in his employment). This is not persuasive evidence but rather a bare assertion and we are unable to make a finding of fact based on this alone.
- 10.7.2 We cannot conclude based on this one interaction that there was any element of 'force' or that the claimant was ever 'required' to work in any way at all. The claimant on his own evidence chose to disregard what PH said about start times on 2/3 occasions which led to the matter being brought to MA's attention. On the occasion that it did result in the discussion with MA, the claimant acknowledged that it was 'heated' and that both he and PA needed to calm down. This does not suggest any element of force. The claimant may have concluded that he was under some obligation to do this (as PH was his line manager) and also agreed in cross examination that there was no real issue with a line manager giving instructions to a junior member of staff, but there is no basis upon which a finding of being forced can be made.
- 10.7.3 We accept that PH's evidence on this is unreliable but conclude this is simply because he simply does not recall incidents

occurring like this but was prepared to acknowledge that it may well have taken place. We accepted the submission of the respondent was that the main reason for this lack of recollection was because this was a brief and minor incident which occurred on one occasion only and therefore was not something that was likely to have been recalled.

- 10.7.4 We have no evidence at all other than bare assertions of the claimant as to what hours other colleagues worked; how those hours were communicated to them and whether any other junior lecturer was advised or not advised by PH about starting work at 8am. The claimant bases his assertions on the fact that he never saw any of this happening and that he believed that other colleagues could come and go as they please but there is insufficient detail for us to make any findings of fact about this matter for comparison to be made.

Notifying MA of late arrivals at work (Issue 3.2.1.2)

- 10.8 The claimant also alleges that PH notified MA on more than 3 occasions he had arrived later than 8.00am. When asked further about this the claimant said that the first occasion this took place was when arrived at around 8.30 having been told earlier that week by PH that he must arrive at 8 am and that PH became angry and went with the claimant to MA's office to raise the issue with him. The claimant claims that PH said to MA "*You need to buy this boy a watch so that he can arrive on time.*" The claimant said that the discussion was heated, and that MA tried to calm both he and PH down. MA's recollection of this incident was that the claimant and PH arrived at his office at 8.30 one morning and that PH pointed to his wrist and said, "*we need to buy this boy a watch.*" MA told us he then had an individual conversation with each of the claimant and PH to try and resolve the matter.

- 10.9 PH initially denied that this had ever taken place but in his amended witness statement suggested that he had no direct recollection of this taking place but that if it did it had no connection to the claimant's race or religion. We find that there was one occasion when PH notified MA that the claimant had arrived what he considered to be late to work and went with the claimant to MA's office to discuss this. We also find on this occasion that a comment was made about needing to buy the claimant a watch. We do not accept that this happened on 'multiple occasions.' We find this because:

10.9.1 The claimant and MA gave similar accounts of this event and gave the same recollection of this striking comment regarding a watch having been made.

10.9.2 PH's account on this matter has changed slightly with his more contemporaneous view being that he denied that such a

conversation took place and then stating that he did not recollect it. We find that PH's later account is more likely in that he simply had no recollection of asking this question. This is likely to be because this was not seen as a significant event at the time.

- 10.9.3 The only evidence of detail related to one time that the claimant was aware of the matter being raised with MA (which MA supports). There is no persuasive evidence that this happened again and if it had, we find the claimant would have been able to provide more detail about the circumstances.

Issuing a verbal warning for lateness (Issue 3.2.1.2)

- 10.10 The claimant also alleges that PH issued the claimant with a verbal warning. There was no detail about when this was said to have occurred in the claimant's witness statement. When asked about this during cross examination the claimant said that this was not a formal warning involving HR, but that PH warned him "*a few times*" and went on to state that it was a verbal warning that happened "*multiple times*" in front of MA. MA gave evidence that he was told by the claimant that PH had given him a verbal warning, but he was not aware of this. PH told us he did not issue such a warning to the claimant for being late and if he had done this, it would be recorded in his HR file.
- 10.11 We find that no verbal warning was issued to the claimant for attending late. We accept that on the one occasion referred to above, PH did raise the issue of the claimant starting on time with him on 2-3 occasions and that this led to both then going to see MA to discuss this. However, in no sense could this be seen or found to be a 'verbal warning.' We also find that this is when the claimant reached the conclusion that he was being 'micromanaged' by PH as he resented the interference of PH in the arrangements he was making for his working day.

Forcing the claimant to mark assignments for the Hong Kong Modules (Issue 3.2.3.1).

- 10.12 The claimant alleges that between February and April 2019 the claimant was forced by PH to mark assignments for the Hong Kong modules that he was never part of and never taught. He alleges that there were more than 250 scripts to be marked which he carried out alone. The claimant further alleges that when he tried to carry out this work in his office that PH told him that these must be marked at home and other office work like teaching and administration should be carried out in the office. It was put to the claimant that as he had already acknowledged that during this period he did not have as much allocated workload or teaching responsibilities as colleagues who had been there from the start of the academic year, that it was acceptable for him to be given this additional work to complete. The claimant said that although he did not have as much of an allocated workload, he did have to undertake training as a

new starter and that this took up all his working hours. The claimant alleged that no other white colleague was asked to provide this assistance.

- 10.13 PH gave evidence that he did ask the claimant to assist him to marking a proportion of scripts from Hong Kong students but that the claimant only undertook 25% of the total marking for the module and that PH himself marked the remaining 75%. PH said he asked the claimant to assist with this task, after checking with MA whether the claimant would have spare capacity to assist with this work who confirmed that he did. MA said he could not recall that this took place but accepted that he and PH did at the time discuss the allocation of work. On this matter we preferred the evidence of PH and find that the claimant was allocated this work, but that this had been discussed in advance with MA. We also find that this took place on just one occasion. We did not accept the claimant's assertion that he was informed that this work must be carried out at weekends only.

Forcing the claimant to work more than 45 hours per week (Issue 3.2.2.1)

- 10.14 The issue of the working hours of the claimant was discussed at length during the hearing and we were referred to the respondent's 'Agresso' HR system. On this system 1597 hours per year were allocated to each lecturer which when divided across the year gave an average of 34/35 hours per week. It was noted that on 'Agresso' it showed a figure of 30 hours per week that each employee had to work. The claimant said that this reflected his normal working hours. The respondent contended that this figure was an administrative, nominal figure used for its own purposes, but it was not a figure upon which employees were able to place reliance. We found that broadly this was an internal figure used for the respondent's purposes but did also reflect on average hours that an employee might be expected to work.
- 10.15 The claimant's contention was that he was 'forced' to work 45 hours per week. When it was put to him that other academic staff were also working long hours it conceded that if that was the case that they were "*working independently on their own will*" not forced as he says he was. We were initially referred to a document at page 235 which was a table showing the allocation of workload across academic staff at the respondent. However, it became apparent that this document related to the 2021-2 academic year and whilst may be useful for illustrative purposes was not evidentially of use in relation to this year which was 2019. The claimant when asked to provide detail of the work that he was forced to do said that he had "*been asked*" to cover some classes for a colleague who was on sick leave and referred to "*being forced to mark*" the Hong Kong modules which we have already dealt with above.
- 10.16 Whilst we could accept that the claimant was as a matter of fact working lengthy hours during this period (as no doubt were other colleagues), we

had no basis upon which to find that the claimant was ever forced or required by PH or anyone to do this. We were also unable to make a finding about working hours any other employees who may be comparable to the claimant were working or upon what basis they were working such hours. We find that the claimant formulated this allegation following the conversation with LG when he became the claimant's line manager that we refer to below. It was at this stage that the claimant became aware of the Agresso 30 hours figure and became concerned that he was in fact working much more than this. However, this is not the same as the claimant ever being forced or required to do this.

Alleged complaints to MA about PH conduct

- 10.17 The claimant alleges that he raised issues "*on multiple occasions*" around PH micromanaging his start and finish times with MA in March 2019 . As there was no documentary evidence of any complaints, and no evidence about these conversations in the witness statement of either the claimant or MA, the claimant was asked to provide further detail in cross examination. He said the first occasion this was done was when PH accompanied him to MA's office (see above) and that he had informed MA on two other occasions on his own and told him that his concern was that "*he was forced to arrive at 8 and white colleagues were not*". He said it was not formal and when asked why he did not make a formal complaint at the time he told the Tribunal that it was because he was on a Tier 1 visa, and he was concerned for his job and felt vulnerable so raised it informally with MA. The claimant said that MA told him that he would "*look into it*" and then as he saw that his line manager was subsequently changed, he did not raise it further. He also said that on one occasion MA told him that as he was on probation, he "*must follow what is being said.*"
- 10.18 MA told us when he was asked that he and the claimant had "*multiple conversations*" where he complained about PH and on the last occasion this was raised, the claimant complained that this was racially motivated. He agreed that this was an exceptionally serious complaint. He told us that he contacted HR to discuss what to do about the claimant's complaint and had been informed by someone there (whose name he could not remember) that the claimant should be advised to make a formal complaint. He said that when he shared this information with the claimant that the claimant said he did not want to pursue this given his immigration status. MA told us that he then agreed with the claimant to change his line manager to LG to remove the problem. MA said he had not raised the matter of racism with PH but had raised with him issues about micromanaging the claimant. MA further elaborated that after he had left the employment of the respondent that he had had "*numerous phone calls*" from BAME colleagues complaining about PH behaving in a racist manner towards them and specifically mentioned colleagues using the phrases "*a whitewash*" and "*ethnic cleansing.*"

- 10.19 We found the accounts of the claimant and MA on this issue entirely unreliable as no mention at all had been made of the contents of these alleged discussions until they were asked further about this in cross examination. When the claimant originally complained about PH in his grievance in February 2022, he had stated that he felt unable to complain to his Head of School due to his vulnerable status (paragraph 10.49 below). Contemporaneous complaints about race discrimination would be clear to all witnesses as highly important evidence in this claim for race discrimination and its omission from any of the accounts given previously is striking. We did not accept that MA and the claimant were unaware of the significance of this. We found it highly improbable that if a conversation of this nature had taken place between MA and HR as alleged that there would be no record whatsoever of this discussion by anyone. MA was Head of School, a position of some responsibility at the respondent and had a complaint of race discrimination been raised, it is implausible that he would have addressed it in such a casual manner. Moreover, the accounts of the claimant and MA were inconsistent with the claimant suggesting he had been told by MA he would look into it, but MA telling us that he had told the claimant of the process but that that the claimant had then decided not to pursue the matter formally. On this entire matter we found that both the claimant and MA gave evidence that was not truthful and so we could not accept it.

Allegation re continued interference with the claimant's workload by PH (Issue 3.2.3.2)

- 10.20 Other than the matters upon which we were able to make findings of fact upon above, it was not clear what conduct the claimant is complaining of in this allegation. We were unable to make any findings to this effect and so find that there was no 'continued interference' with the claimant's workload by PH at this time.

Allegation re the claimant being forced by PH to write PH's name on the claimant's publications and research grants (Issue 3.2.10)

- 10.21 It was unclear what this allegation related to as no detail was provided in the claimant's witness statement. When asked about this in cross examination the claimant said it related to one occasion when he was completing and submitting bids for BC projects in early 2019 and that he reported PH's actions to MA at the time. MA similarly did not recount this report being made to him in his witness statement but when asked said that the claimant had raised it with him but as a complaint had not been made in writing, he did not take it further. Both the claimant and MA agreed that this matter would have been an issue of academic misconduct. PH denied that he ever made such a request of the claimant stating that he had no involvement or real insight into the claimant's research work. We were unable to find that this ever took place and for the same reasons we set out at paragraph 10.19 above, we found the evidence of the claimant and MA on this matter unreliable. This was a

very serious allegation of academic misconduct, and had it occurred and been reported to MA by the claimant as suggested, it would have been a serious lapse of judgment on his part not to take this allegation further investigate. On this matter again, we found that both MA and the claimant were untruthful in their accounts.

Appointment of LG as Claimant's Line Manager

- 10.22 In July 2019 there was a change in management structure at the respondent and LG became the claimant's line manager. The claimant and MA suggested that this had been done because of complaints made by the claimant. PH told us that his understanding was that a pilot was put in place to create 'Subject leads' which led to LG becoming the claimant's line manager. We find that the change was implemented as part of a wider restructure as we were not satisfied that MA would have implemented a change of this nature solely to address the matters complained about by the claimant. Shortly after LG became the claimant's line manager, we heard about a conversation between the claimant and LG regarding when he should arrive at work. The claimant reported to LG in the morning of his first week and LG asked the claimant why he was doing this. The claimant then said to LG that this is what he had been told to do by PH when he was his line manager. It was at this time that LG informed the claimant that he did not require him to attend at a particular time and that he was free to manage his own work schedule. LG then made a comment that if the claimant was arriving at 8 and leaving at 5 every day, that he would be working well over the 30 hours recording as working time on Agresso (as LG understood that this was what this figure represented). The claimant told us that it was at this time he became aggrieved by the hours he was working previously. We also find that it was a result of this conversation that the claimant decided to pursue a complaint that PH had forced him to work more than his required hours.

- 10.23 The claimant acknowledged that once LG had become his line manager that he had no further issues with PH during his probation. We did not hear of any other incidents and the claimant makes no complaints about anything that then took place from July 2019 until just under two years later in June 2021. During this period, the Covid 19 pandemic had begun and the respondent like other universities moved to online teaching for much of its teaching. This started to revert to face to face teaching during 2021.

Resignation of MA as Head of School of Architecture and the Built Environment and appointment of PH as Interim Head

- 10.24 On 30 June 2021, MA left the employment of the respondent because of resignation and was replaced by PH on an 'Acting Head of School' basis from 1 July 2021. MA left his employment to take up the appointment as the Dean of School at Brighton University.

Allegation regarding the claimant's BAME colleagues being prevented by from attending the claimant's workshop events (Issue 3.2.9)

- 10.25 The claimant had been involved in a project for a BC funded workshop to take place in Jordan from 1-4 November 2021. He explained that this was a project led by a colleague Professor M Fullen ('MF'), but he was involved as a participant. On 1 October 2021, the claimant sent an e mail to a number of academic and other staff at the respondent about this project (page 103-4) asking them to complete their travel requests for approval by line management to attend. He also indicated that the attendees would also need to get the "Fin01 and Risk Assessment" forms signed by PH as Head of School. PH was copied in to that e mail and responded stating that he was "*fully supportive*" and asking for information about the project namely who was travelling and what their involvement was; confirmation that the respondent's travel guidance supported travel to Jordan at the time; confirmation that teaching and workload cover was in place and that all staff were well enough to attend (page 104). The claimant responded the same day thanking PH for his support noting "*as always*" and providing the information requested (page 105). PH subsequently provided the approval for this travel to go ahead as confirmed in an e mail sent by the claimant to PH shown at page 106 where he thanked him for this. PH subsequently provided details of DP's PA as he was attending and in a further e mail on 11 October 2021 e mailed DP and the claimant stating that the fact that the Jordan workshop had been approved by the respondent's business team was "*excellent news*".
- 10.26 It was put to the claimant that PH's actions in approving the attendance of a number of BAME colleagues (5 out of the 7 attendees) to attend this Jordan workshop was wholly inconsistent with the suggestion that PH was refusing permission for BAME colleagues. The claimant suggested that although PH had supported attendance on this Jordan workshop this was because it was a project led by MF and when it came to a different workshop organised by the claimant that he was leading on, that PH did prevent their attendance. The claimant said this related to a BC funded project he was organising that was due to take place between 25 and 28 October 2021. This had been originally scheduled to take place in the Philippines but because of Covid 19 travel restrictions in place at the time that this could not take place there so the claimant arranged for this to be held at Brighton University. MA was aware of this at the time as he had since relocated to this university. The claimant told us that three of his colleagues, OO, Mr A Kaushik, and Dr L Obi ('LO') had been prevented by PH from attending this workshop.
- 10.27 When asked about what had taken place during cross examination OO said that PH had not signed the required forms needed so he could attend but he had not been informed why. He said that he had been told by LO that PH had told her he did not support OO and LO attending. He further stated that PH had on one occasion told him that "*not under his*

watch” would OO and LO be attending, although it was not clear when this was said by PH. Our attention was drawn to some messages sent between the claimant and OO relating to this matter on or around 11 October 2021 (page 115-117). In these messages, OO reported to the claimant that PH (whom he referred to as the claimant’s ‘mentor’ which the claimant acknowledged was a joke between them) did not want him to attend the Brighton event and that he did not sign the approval form he had submitted about this. He also said that PH had signed a similar form in relation to a workshop in Egypt. In a different exchange of messages with the claimant OO stated:

“Hell is letting loose here....your mentor is fuming” and then further sent a message saying

“And again he said he would not sign the fin01 form”

He later in the exchange said to the claimant that PH had told LO that he would not be supported in going to Brighton, commenting to the claimant that he did not like the *“awkward position”* he was in and wished he had the *“power to protest.”*

- 10.28 PH told us that in relation to the Brighton University conference that he had not agreed to the attendance of OO and LO because firstly he did not understand why the conference could not be held at the respondent rather than a different university. He also said that the two colleagues who wanted to go that he did not approve were lead QS team members which would have led only 1 other member of the QS team available for this time. He told us that if the conference had been held at the respondent, he would have had no problem with anyone attending. When it was put to PH that the conference was related to coastal erosion and thus it was unsuitable for the respondent’s location (as there would be the need for site visits) PH said he did not know this at the time. He denied shouting (which had been alleged) and said he could not recall using the phrase *“not under my watch.”* We find that PH refused to authorise the attendance of these two individuals, but we were not satisfied that the claimant had shown that PH had shouted at anyone. We were satisfied from the evidence of OO that a phrase along the lines of *“not on my watch”* was used by PH when he informed OO he would not be attending. We find it far from coincidental that it was Brighton University, the very university that MA had only recently left the respondent to join, that was being put forward for the location for the conference and that this is likely to have informed some of PH’s decision making about supporting this event.

Appointment as Senior Lecturer

- 10.29 In November 2021, the claimant was appointed to the role of Senior Lecturer which was approved by PH. The claimant was referred to E Mail 1 which was sent by PH on 10 November 2021 to DP and C Russel and

headed Academic Progression. It approved the upgrading of the claimant and MS to Senior Lecturer whilst pausing the proposed upgrading of another employee. In relation to the claimant PH stated in this e mail:

“Dr Rana – Fully support his upgrade – Dr Rana is fully engaged in research interventions and is one of the School’s exceptional researchers with numerous impact successes. Dr Rana has been extremely successful in securing international and UKI research grants and is fully supported to be upgraded to an SL.”

The claimant agreed that this was a glowing endorsement of him by PH although stated that it was MA who had initially proposed his promotion and it took 6 months to be approved. He did not accept that this endorsement was contradictory with the claimant’s views that PH was being racist towards him as in the claimant’s view it was *“inevitable”* and *“visible to anyone in the school”* that he should be promoted as he was bringing in more research funding than any professor and was the youngest member of the school.

Allegation re being forced to work when on sick leave with Covid 19 in November 2021 (Issue 3.2.4.2)

- 10.30 The claimant conceded during cross examination that he was not on sick leave with Covid 19 in November 2021 so agreed that this factual allegation fell away.

Issues around JAET article and MDPI publishing fees

- 10.31 The claimant was in Jordan between 1 and 4 November 2021 attending the workshop referred to above. It appears that on return he was completing a period of isolation and on 10 November 2021, the claimant was contacted by Ms A Jones (‘AJ’) who was the Academic Support Administrator for PH by e mail (page 122) asking him to attend a meeting with PH to discuss the payment of fees publication of an article in JAET and MDPI. The claimant replied to say he would attend but went on to ask that the invoices for publication be approved for now but then he could meet PH the following week to discuss any issues he had. He explained that he was *“mindful of the time it takes for the finance to make the payment even after [PH] has approved it”* and informing PH that

“the deadline to spend the money and send the report to British Council for this grant is 30 November 2021. Any amount unspent after this date will be sent back to the funder as per the contract which will be a waste.”

AJ responded saying that she appreciated his concerns but that as PH was the budget holder all financial paperwork had to be approved by him first. She went on to note:

“As Interim Head of School responsibility for this project and anything that comes under ABE lies with [PH]. I would get into serious trouble and would be breaking several University Policies if I approved these payments without [PH]’s prior approval. There is a process that must be followed at all times anything outside of these strict rules constitutes a breach in regulations and would have serious repercussions for the University and any future projects. I hope you can appreciate this as these rules are in place for a reason and I am bound by them within my role as Academic Support Administrator.”

PH followed this up with an e mail to the claimant asking the claimant to liaise directly with him and noted:

“You have been very successful with these interventions, and I am supportive and encouraged by your activities however finances must be managed appropriately”

Allegation that in November PH spent the claimant’s grant money on banners and zap stands for use by the School in violation of the terms of the funder’s contract and the Respondent’s internal procedures (Allegation 3.2.7.1)

- 10.32 We tried to get to the bottom of what happened during the evidence as the claimant had not set out clearly precisely what was complained about. The gist of this allegation was that the claimant alleged he was required by PH (as a condition of him agreeing to approve this project) to spend spare money from a grant he had obtained from the BC to produce banners and zap stands and these were deliberately incorrectly printed with respondent promotional material (rather than BC) which put him in breach of the funding requirements. He alleged that it was only him and not two other white colleagues who had also received BC funding that was required to spend any underspend from their grants in this manner. He says that this caused him reputational damage with the BC. What was clear is that in November 2021 the claimant was involved in discussions with PH about the printing of posters and zap stands. We saw at E Mail 3 a copy of an e mail from PH to the respondent’s printing team on 15 November 2021 providing him with a cost code and stating that *“I will come and select zap stands etc”*. PH told us that he went to the printing department together with the claimant around this time to arrange this but that he had no real knowledge of what the requirements of the BC as to what should be included and left this to the claimant. There was then a further e mail from the respondent’s printing team to PH on 16 November 2021 which appeared to attach artwork for the flyers and zap stands and asking him to approve the printing. It did not appear that the claimant was on copy to this e mail but there was then an e mail which looked as if it was in response to this from the claimant again on 16 November 2021 which stated:

“Once the printing is finalised by [PH], can you please forward the invoice to me with the total figure so that I can update it in my records before closing the accounts.”

He received a reply to this again from a member of the printing team confirming that there would not be an invoice but there would be an internal recharge to a work order, but he could let him have the final amount when calculated.

- 10.33 We saw at E Mail 2 a copy of an e mail sent by the respondent’s printing team on 26 November providing prices for a number of items including zap stands and posters which came in at a price of either “£1243 or £1311”. It appears that PH replied to this original e mail on 28 November 2021 asking for a reduction in the number of one item adding “*we need to remain within a £1,000 budget*”. Further queries were then raised by another member of the printing team on 29 November 2021 stating that even if reduced as PH suggested it would still not be under £1000. The claimant replied to this e mail chain on 29 November 2021 stating:

“If the budget goes slightly above £1k, please don’t worry about it. I just need a final figure to close the budget and project ASAP please.”

- 10.34 It was put to the claimant that these e mails showed that he was fully aware what the BC grant money was being spent on and had been involved in the decision making. The claimant suggested that he knew about the printing but not the detail about what was published and what was in the end published was university related material and not material with the required BC logo on it. He explained that he was not on site when the materials were produced but was informed by MS what the eventual banners and zap stands looked like. We find that both the claimant and PH were involved in discussion and agreed at the time about the use of some of the claimant’s funding to pay for zap stands and other items to be used for future BC projects. However, we did not accept the assertion that somehow PH had forced the claimant to act in this manner knowing that it was in breach of BC funding requirements or that in some way PH deliberately printed the materials in this way to cause the claimant difficulties. We accepted that PH was unaware of what the requirements for BC printing of materials were. We also accept that the claimant did not check what was ultimately printed at the time. However, we were not at all satisfied that PH arranged for this printing to take place as a deliberate act to discredit the claimant and put in him in breach of BC requirements. This is a somewhat strange allegation, given that this would and could also cause difficulty for the respondent as the organisation in receipt of the BC funding. In our view it is much more likely that if printing took place that was incorrect and not in line with BC requirements that this was an error.

Allegation re being required to work in December 2021 when on annual leave (Issue 3.2.4.1)

- 10.35 The claimant was on annual leave between 1 and 15 December 2021. He had requested to take annual leave during this period to travel to Pakistan to undergo treatment for kidney stones (as he told us the waiting list for such treatment in the UK was much longer). The allegation about being required to work during this period was not clear and it turned out that the claimant appeared to be complaining about the issues that arose in February 2022 which we deal with in any event below. We find that the claimant was not required to work at all during this period of annual leave between 1 and 15 December 2021

PH appointed as Head of School

- 10.36 On 10 December 2021 it was announced by email to staff by DP that PH had been appointed to the permanent role of Head of School (page 124). The claimant sent a reply all e mail in response to this congratulating PH on his appointment stating that it was “*Very well deserved and as we wished.*” The claimant said he sent this e mail as part of the congratulatory culture in the workplace to send such e mails when someone was promoted. He denied that this was inconsistent with his belief that PH was behaving in a racist manner towards him stating that this was what “*everyone did*” and he was trying to be nice as a victim to keep the trouble away from him. We were not entirely satisfied with this explanation but accept that this was an email sent as a matter of courtesy and may not have as the claimant suggested coming “*from his heart.*”

Offer of new employment

- 10.37 On 15 December 2021, the claimant was offered and accepted on the same day an offer of employment as a Tutor with the University College of Estate Management (page 126-157) with a starting salary of £46,000 which the claimant agreed was more than he was being paid at the respondent. This was an online teaching position. It was put to the claimant that this was a more convenient position for him given his health difficulties. The claimant agreed that there was an incentive to take the role because of the convenience of working from home but that this role was an “*escape route*” for him and was in effect a role two levels down from his position at the respondent of Senior Lecturer, as this new role was a Tutor role.

Resignation of Claimant

- 10.38 On 16 December 2021, the claimant e mailed PH to inform him that he was resigning from his employment (page 158). In this e mail the claimant stated:

“Due to some personal circumstances, I am putting forward my resignation from this job at Wolverhampton University and switching to an online position elsewhere. Please consider this email as my formal notice of leaving and process any paperwork that may be required from me.

This is a very difficult decision for me as I had excellent successes here in both teaching and research but my collaborations with Wolverhampton will continue, especially the projects that I am working on and those where I am listed as the Co-PI including STELLAR, ADSPE and the recent grant with Egypt.”

- 10.39 PH responded confirming acceptance of the claimant’s resignation on the same day stating that he was noting *“the conversations and discussions we have shared.”* It wished the claimant well for the future and stated:

“It’s a real shame that you cannot continue your amazing journey at the University of Wolverhampton, but fully understand the circumstances that has bought on and influenced your decision.

I will be in contact soonest regarding a termination interview and management of project hand—oversand please stay safe and health over this festive period.”

An automatic out of office reply was received by PH to this e mail which stated that the claimant was “away” until 24 December 2021 with limited access to the internet (page 159)

Medical treatment received by the claimant in Pakistan

- 10.40 In December 2021, the claimant had taken annual leave to travel to Pakistan to receive treatment for his kidney stones which was due to end on 15 December 2021. On 10 January 2021, the claimant e mailed LG and PH to inform them that he had travelled there but that there had been some complications with his health and the planned surgery was unable to take place. It also informed LG and PH that he was suffering from an *“acute infection”* and was *“continuously sick and on bed due to it.”* He went on to state that he was unable to work or travel internationally and had just been admitted to hospital. He said he was asking for sick leave, and he did so with a *“heavy heart”* and was the first time in 3 years (page 160). LG responded on the same day stating that he was sorry to hear about it and that the claimant should keep the respondent informed.
- 10.41 On 3 February 2022, the claimant e mailed LG and PH with an update and informed them that he had contracted Covid 19 whilst he was due for surgery (page 177-8). He stated that he hoped the surgery would take place on 9 February 2022 and would travel back after 4 days recovery. This e mail attached scan photos and doctor’s letter (shown at pages

190). PH e mailed on 3 February 2022 asking him to confirm when he would be returning to the UK and the claimant e mailed on 4 February 2022 confirming that he would return on 11 February 2022 or shortly after (page 177). PH responded the same day to say he was sorry to hear about the claimant's circumstances and asking to "double check" whether he had returned to the UK. He stated that he was conscious that the claimant had resigned and needed to arrange a meeting when the claimant was feeling better. It also said he would upload the claimant's sick note on to the respondent's system (this was e mailed to LW on 10 February 2022 -see page 188). The claimant replied to confirm he would return on 11 February 2022.

Allegation re PH intentionally delaying submitting reports and approving expenses for the claimant's 2019-RLWK11-10237 research project by 3 months (Issue 3.2.8)

10.42 The claimant alleges that PH intentionally delayed processing payment of invoices for the publication of an article for a 3 month period. There had been some correspondence between the claimant and PH about the approval of invoices on the JAET issue in November 2021 (see paragraph 10.31 above). On 19 January 2022, the claimant received an email from an employee in the respondent's finance department asking him to provide information needed to make payment via a link for the JAET invoice (page 172-3). The claimant replied to this e mail copying OO on 21 January 2021 asking him to provide the required information (page 171) which he responded to on 24 January 2022 (page 170-171) and attached a screenshot of an invoice. The respondent's finance team replied that same day asking OO to provide the name of the journal (stating that it was not visible on the screenshot) which he did straight away (pages 168-9). OO then sent an e mail to finance on 1 February 2022 asking him to "fast track the payment for this paper" as the "editor has been chasing us annoyingly". The reply received stated that there were no funds on the work order to make the payment and that an e mail had been sent to the claimant to review the matter (page 166).

10.43 The claimant (who had been copied into all this correspondence) then e mailed finance on 1 February 2022 (page 165-66). This e mail also copied in LG and AJ and stated that he was:

"disappointed and annoyed that I have been requesting this payment to be made for more than 3 months now but every time I am given a new excuse, more complex than the previous one".

He went on to state that as the workshop happened in October 2021 that the respondent was now in violation with its agreement with the British Council as it was supposed to have been done within 30 days. He said that his payment should be processed "*within this week no matter what.*" He complained that he was on sick leave and having to respond on these matters on his personal phone and went on to note:

“If I am still required to review the budget and other files on my sick leave before this payment happens, plz copy the HR in the next e mail as well”

- 10.44 The claimant received a reply from a more senior member of the finance team on 1 February 2022 instructing the payment to be made and then stating that she had made some corrections to the claimant’s finance account but that the claimant would *“need to review the transaction list I sent this morning or if you could get someone else to have a look then please do so”*.

We find that although there were clearly some real issues with the actual payment of these expenses on the claimant’s project that these were matters of administrative delay and difficulty, rather than any deliberate attempt by PH to block or delay payment over a 3 month period. The sums in question had already been approved but the respondent’s systems were unable for various reasons to process the approval and put into operation the payment. We accepted that the difficulties were caused by links not working and perhaps confusion and a misunderstanding in the respondent’s finance team about how such payments abroad should be made. We accepted PH’s evidence that there had been general problems with the payment of such invoices at the time not confined to the claimant’s matter. We accept that this confusion may have led to PH ultimately deciding to pause the issue whilst the claimant was absent (see below) but do not find any evidence to suggest a deliberate attempt by PH to prevent approval and payment of these sums to cause the claimant difficulties.

Allegation about the claimant being required to contact PH whilst on sick leave on 4 February 2022 to discuss the pausing of a payment process for one of the claimant’s projects (Issue 3.2.5.1)

- 10.45 On 4 February 2022 Alice Jones e mailed the claimant regarding the JAET invoice (page 163) as follows:

“I’m sorry to hear that you’re unwell, I hope you recover quickly. After a discussion with Paul, he has asked that we pause the payment process for JAET for the time being. I do apologise for any inconvenience caused as I know you’re keen to get this resolved as soon as possible. if you have any queries please contact Paul and discuss them with him.

- 10.46 The claimant then e mailed PH about the non payment of this invoice on 4 February 2022 (page 162).

“I have just seen the email below by [AJ] stating that you have halted this payment again while it was first approved in November 2021 after the printing issue (zap stands) being raised by yourself.

Can I please ask the reason behind it being stopped once again when we are already more than 3 months late for this project's report.”

He went on to state that the university was in violation of its contract with the British Council because of the delay and that although on sick leave to contact the claimant “*on MS Teams any time to discuss it through*” as it did not want to leave tasks outstanding with his impending departure.

- 10.47 PH then responded to the claimant on 7 February 2022 (page 162) stating that he believed that the issue was making the payment internationally and if this could be resolved then it could progress. He stated:

“There is no issue with signing off”

He went on to ask AJ to confirm what the issue was with payment. She responded on the same day stating that the issue was that the link provided did not seem to be working and that neither did using the Faculty credit card to make payment. She explained that Finance had decided that a “Request for Foreign payment form” needed to be completed and signed by PH and DP (as the amount was over £500). PH further responded to AJ that he could sign the form today and that DP could add his signature the day after (page 161).

- 10.48 It was put to the claimant that this was simply an administrative matter, and that the claimant was being notified of an issue with the payment mechanism and not that PH was intentionally delaying anything. The claimant suggested that he felt that PH had only in fact stated that there was no issue with payment after he had filed his grievance. When asked how it was said to be discrimination, the claimant said it had not happened before and had taken 4 months which never happened with any colleague. We were firstly not satisfied that the claimant again was ‘required’ by anyone to contact PH on this occasion. We entirely accept that the claimant became understandably frustrated by the difficulties he was having in getting payment of these invoices. He was clearly unwell at the time but decided to intervene to try and sort these administrative difficulties out. We had much sympathy with the claimant at the time who was clearly upset and frustrated that he felt he needed to intervene to solve the difficulties but again did not feel that there was an element of deliberate malicious action, rather an unfortunate set of circumstances which the claimant himself chose to get involved to resolve.

Grievance and appeal process

- 10.49 On 6 February 2022, the claimant raised a grievance complaining about PH (page 181). It raised a number of issues that the claimant said he had with PH

“including but not limited to interference with workload distribution, day to day bullying, racial discrimination, influencing and inhibiting my research career and forcing to work on the weekends and during sick leave. All these reasons made it unbearable for me and I finally resigned on 21st

December 2021 to get out of this toxic environment and regain my mental peace". It went on to complain about each matter. He alleged that PH forced by PH to arrive at 8am and leave after 5pm and that if he arrived later PH *"would complain to our then HoS MA"*. It also stated:

"I was afraid to report this behaviour to by then Head of School or HR department as I was on my probation period and on a Tier 2 visa" . It went on to complain about PH forcing the claimant to work more than 30 hours a week and mark the Hong Kong assignments, stating that he *"did it for one semester but refused to do it again due to my family commitments and responsibility over the weekends"*. He alleged that this treatment was due to race and colour and that even when LG took over as his manager, that there was continual interference by PH. The e mail then went on to set out the issues arising whilst he was abroad receiving treatment stating that he was:

"forced to work, reply to e mails, get invoices from the publishers and chase them on a daily basis" and that this was because of the "delay intentionally caused by [PH] and halting my research funds." He stated that when white colleagues went on sick leave, he covered their duties, but he was unable to get a *"peaceful sick leave."*

10.50 He further outlined a concern that PH had initially stopped the transaction referred to in November 2021 and that he had *"insisted that research grant money should be used to produce banners and zap stands for the school so that he would approve the payment"*. He went on that when this was challenged by the claimant that PH then *"stopped the payment."* He alleged that this was punishment due to his race. He also alleged that PH had *"instructed him on one occasion that I should add his name to my research grant applications."* The grievance also complained about further delays in project reports and requested that any current funding from the British Council move with him to his new employment. There was also a complaint that PH had stopped the claimant's BAME colleagues from attending his research events and shouted at two such colleagues. It further complained that other BAME colleagues were suffering discrimination.

10.51 This was acknowledged by T Hulme of the respondent on 7 February 2022 (page 184) who stated that someone from HR would be in touch. LG (who was on copy of the claimant's grievance) forwarded this e mail to PH on 7 February 2022 (page 187). PH then e mailed L Weir ('LW'), the respondent's HR Business Partner at the time and PD stating:

"I find the allegations, accusations most disturbing, extremely disappointing and refute all claims made."

LW e mailed the claimant on 10 February 2022 (page 192) asking him to let the respondent know when he came back to the UK so that a meeting

could be arranged with DP to start the process. The claimant responded the same day (page 194) challenging the involvement of DP stating:

“Given the close relationship between [PH] and [DP], I don't think I will get a fair hearing with him and therefore, I don't want to participate in a sham investigation.”

LW responded (page 193-4) stating that she heard his concerns, but that DP needed to be aware of issues raised and that as no record of this being raised before had been found, he may not be aware of them. She went on to explain that DP would not be investigating the complaint (as this had been delegated to another individual Dr R Shiner ('RS'), one of the associate deans who would be supported by HR); and that the initial meeting was for him to listen to the complaint and gather information. The claimant further objected to this proposal in a further e mail sent the same day (page 194) complaining about RS being a friend and colleague of PH. He asked that the enquiry be overseen by someone above the faculty, suggesting Professor J Clarke ('JC').

- 10.52 The claimant sent a further e mail on 16 February 2022 (page 198-9) addressed to a number of senior individuals including JC (and LW). This e mail repeated the concerns raised about DP and RS being inappropriate to conduct the investigation. In the e mail the claimant also alleged that the actions of PH had violated the terms of the British Council funding for the 2019-RLWK11-10237 project and that he would be reporting this to the funders. He went on to mention funding obtained for another project in Egypt and stated that he could not risk leaving the funding with the respondent, and he would

“demand his share in the project to be moved to my new employer.”

LW replied that she had now identified a replacement investigator, SS, following the claimant's objections and asked the claimant to confirm dates to meet with DP (page 197-8). The claimant then questioned the seniority of SS in relation to DP and went on to state that although he would meet with DP, he was not prepared to discuss the issues about his grievance with DP but only his request to take his current British Council grant with him (page 196). The claimant continued to raise questions between 17 and 22 February 2022 about the process with LW which were responded to (pages 195-6).

- 10.53 The claimant met with DP on 23 February 2022 with LW in attendance and the notes of that meeting were at pages 201-202. The claimant went through the issues contained in his grievance again requesting that the share of the current £50,000 BC grant be transferred to his new employer. On 2 March 2022 LW wrote to the claimant enclosing a copy of a terms of reference ('TOR') document outlining the scope of the investigation and included a copy of the notes she took of that meeting (page 207-8). The claimant responded on 8 March making some

suggested changes to the minutes of the meeting and commenting on the TOR (page 213-4). LW made some changes to the TOR, and these were sent to the claimant (see final TOR at pages 218-220)

- 10.54 On 28 March 2022, the claimant attended a meeting with SS who was accompanied by LW as HR support and S Khan to take notes. In advance of that hearing the claimant had communicated with union representative Mr A Byrne ('AB') about his earlier objections to DP conducting the investigation where he was advised that he should still attend but could raise this as a matter for appeal at a later point (page 225). AM accompanied the claimant to this meeting. The minutes of that meeting were shown at pages 221-226 but as the claimant does not raise a complaint in this claim about the events of that meeting, we have not made detailed findings of fact about what took place. However, in relation to the complaints before us, we noted that as well as raising his own issues the claimant made allegations involving other BAME colleagues and suggested that the respondent send an anonymous questionnaire to find out information about this. The claimant also provided further information about his allegation about PH and the zap stands alleging that PH had requested to meet him face to face to discuss this project and had said that he would only approve the project if the claimant agreed that PH could use some of the money for printing for the respondent alleging that PH forced him to agree to this.
- 10.55 SS then held a meeting with PH on 7 April 2022 (notes at pages 226-230) where he got PH's version of events on the matters the claimant complained about. During this meeting PH told SS that he had consulted with MA before allocating the Hong Kong module marking to the claimant. In relation to the zap stands issue, PH gave his version of events that during a conversation with the claimant about this project he was told by the claimant that he had funding which needed to be used and this could be used for future BC events so agree with the claimant to use this for the printing of A frames and zap stands. In relation to the Brighton conference allegations PH said he denied refusing the claimant's colleagues to attend but had challenged why the event could not be held at the respondent rather than Brighton University and asked those wishing to attend to explain why it was in the interests of the respondent for them to do so. PH stated he was unaware at the time of suggesting the respondent as a location that the event was about coastal resilience. He also said that in relation to recent contact with the claimant about the JAET issue, he did not tell AJ to contact the claimant. On 17 May 2022, LW e mailed PH with some further questions on issues raised (page 249).
- 10.56 The minutes of the meeting held on 28 March 2022 were sent to the claimant on 12 April 2022 (page 246). The claimant says he made some changes to these and sent them back to SK (we did not see this e mail) and then heard no further and the claimant sent a chaser e mail to SK

and LW on 27 April 2022 (page 245-6). The claimant sent a further e mail to LW chasing on 24 May 2022 (page 246) who responded to say that she would ask SS to provide an update (page 245). On 30 May 2022 SS e mailed the claimant to confirm he was in the process of completing his investigation report and submitting it to DP but that he was still awaiting some information (page 247). PH provided the responses to the questions posed by LW on this day (page 248-9). The claimant sent a further chaser e mail on 11 June 2022 and on 24 June 2022 and again on 7 July 2022 (page 251). SS responded on 7 July to say that he was still investigating and that some delays were due to “*staffing issues*” and that as soon as the report had been provided to DP, he would let the claimant know (page 250).

- 10.57 AR gave unchallenged evidence that at around this time the respondent had identified a £20m deficit and that the HR team had been asked to manager a period of organisational change which led to around 250 employees leaving the business on what she described as a ‘mutually agreed resignation scheme’ (‘MARS’). She said that before this was announced to staff in mid 2022 the HR team were carrying out significant background work and were “a little preoccupied”. She explained that three of the respondent’s HR Business Partners had been seconded to work full time on this matter and so that day to day matters such as the claimant’s grievance were unable to be sufficiently supported by HR.
- 10.58 SS met with LG on 18 July 2022 to discuss the allegations about the claimant being forced to work more than 30 hours per week. During this meeting LG told SS about the conversation he had with the claimant referred to at paragraph 10.21 above. LG also explained that although 30 hours per week was shown on Agresso that this was a marker to indicate that the staff was academic staff rather than relating to terms and conditions. He went on to state that staff generally worked “*between 40 and 60 hours per week and are very committed and passionate about their work*”. LG also stated that the claimant had complained to him about PH approving the use of BC funding for unauthorised matters but as he was not involved in this, he could not assist.
- 10.59 SS completed his report in July 2022 (pages 260-267). Again, as no complaint is made in these proceedings around the contents of this report, it is not considered in any further detail. Before completing this report, he provided a draft copy to AR who as Employee Relations Manager was responsible for quality control of all investigation reports made. She told the Tribunal that having read the report she felt that some aspects of it required more clarity and asked SS to reconsider these, although cannot remember the detail of this. There was no e mail correspondence about these discussions, but AR said that her input during this period did have an impact on timescales. On 20 September 2022 DP wrote to the claimant with his outcome to the grievance and that it had not been upheld (pages 268-9). The claimant appealed submitting

a detailed appeal document (pages 270-4). During cross examination, the claimant told the Tribunal that he did in the end report the alleged misappropriation of funds by PH to the BC on 28 September 2022 by e mail although had not included that e mail in the bundle. He confirmed that he could not remember whether they had responded.

Complaints made by other employees of the respondent

- 10.60 The claimant gave evidence about complaints made by other employees of the respondent from a BAME background about the actions of PH. We were referred to the resignation letter and grievance submitted by MS in January 2022 and note that it complained about issues around pay, rating and that he was subject to harassment (page 174-1760). Whilst MS and the claimant had submitted a joint claim, these were subsequently separated and we also find that the issues raised did not seem to be related factually to those of the claimant, save that both made allegations of race discrimination. We were also referred to an email sent by A Kaushik (1AK'), an employee of the respondent, to AB on 18 May 2022 complaining of *"highly unprofessional, discriminatory, toxic, and racist behaviour under the leadership of and by [PH]"* (pages 253-254). It went on to detail various complaints about *"bullying, micromanagement and racism"* and alleged that he too had been prevented from attending a workshop in Brighton University. This e mail went on to state that AK did not want the trade union to forward this grievance to the respondent at that time due to his health. AB responded that they would support him at the time if he wanted to pursue. We accepted the evidence of AR that no grievance was ever raised by AK about this matter and that he left as a result of the MARS scheme referred to above. We were not able to make conclusions on these documents in particular the AK complaint which was not pursued.
- 10.61 The claimant commenced early conciliation in these proceedings on 31 May 2022 and his early conciliation certificate was issued by ACAS on 1 June 2022. He presented his claim form on 2 June 2022.

The Relevant Law

11. Section 94 of the ERA sets out the right not to be unfairly dismissed.
12. Section 95 (1) (c) ERA says that an employee is taken to have been dismissed by his employer if the employee terminates his contract of employment (with or without notice) in the circumstances in which he is entitled to terminate if not notice by reason of the employer's conduct i.e., constructive dismissal.
13. If dismissal is established, then the Tribunal must also consider the fairness of the dismissal under Section 98 ERA. This requires the employer to show the reason for the dismissal (i.e.: the reason why the employer breached the contract of employment) and that it is a

potentially fair reason under sections 98 (1) and (2) and where the employer has established a potentially fair reason then the Tribunal will consider the fairness of the dismissal under section 98 (4), that is:

- 13.1 did the employer act reasonably or unreasonably in treating it as a sufficient reason for dismissal; and
- 13.2 was it fair bearing in mind equity and the merits of the case.
14. It was established in the case of Western Excavating (ECC) Limited v Sharp [1978] IRLR 27 that the employer's conduct which can give rise to a constructive dismissal must involve a "*significant breach of contract going to the root of the contract of employment*", sometimes referred to as a repudiatory breach. Therefore, to claim constructive dismissal, the employee must show: -
 - 14.1 that there was a fundamental breach by the employer;
 - 14.2 that the employer's breach caused the employee to resign;
 - 14.3 that the employee did not delay too long before resigning, thus affirming the contract of employment.
15. Malik v Bank of Credit and Commerce International SA [1997] IRLR 462, [1997] ICR 606. The implied term of trust and confidence was summarised as follows:

"The employer shall not without reasonable and proper cause conduct itself in a manner calculated and likely to destroy or seriously damage the relationship of confidence and trust between employer and employee."
16. If the act of the employer that caused resignation was not by itself a fundamental breach of contract, the employee may on a course of conduct considered as a whole in establishing constructive dismissal. The 'last straw' must contribute, however slightly, to the breach of trust and confidence (Omilaju v Waltham Forest London Borough Council [2004] EWCA Civ 1493, [2005] IRLR 35, [2005] 1 All ER 75).
17. It was confirmed by the Court of Appeal in the case of Kaur v Leeds Teaching Hospitals NHS Trust [2018] EWCA Civ 978, [2018] IRLR 833 in an ordinary case of constructive dismissal tribunals should ask themselves:
 - 17.1 What was the most recent act (or omission) on the part of the employer which the employee says caused, or triggered, his or her resignation?
 - 17.2 Has he or she affirmed the contract since that act?
 - 17.3 If not, was that act (or omission) by itself a repudiatory breach of contract?

- 17.4 If not, was it nevertheless a part...of a course of conduct comprising several acts and omissions which, viewed cumulatively, amounted to a (repudiatory) breach of the Malik term?
- 17.5 Did the employee resign in response (or partly in response) to that breach?
18. The relevant sections of the EQA applicable to this claim are as follows:

4 The protected characteristics

The following characteristics are protected characteristics: ...

Race; religion or belief"

13 Direct discrimination

(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".

23 Comparison by reference to circumstances

(1) On a comparison of cases for the purposes of section 13....there must be no material difference between the circumstances relating to each case."

123 Time limits

(1) [Subject to [sections 140A and 140B],] proceedings on a complaint within section 120 may not be brought after the end of—

- (a) the period of 3 months starting with the date of the act to which the complaint relates, or
- (b) such other period as the employment tribunal thinks just and equitable.

(3) For the purposes of this section—

- (a) conduct extending over a period is to be treated as done at the end of the period;
- (b) failure to do something is to be treated as occurring when the person in question decided on it.

136 Burden of proof

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

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

19. The relevant authorities which we have considered on the direct discrimination and victimisation claims are as follows:

Burrett v West Birmingham Health Authority 1994 IRLR 7, EAT is an example of the proposition that it is for the tribunal to decide as a matter of fact what is less favourable treatment and the test posed by the legislation is an objective one. The fact that a claimant believes that he or she has been treated less favourably does not of itself establish that there has been less favourable treatment,

although the claimant's perception of the effect of treatment is likely to be relevant as to whether, objectively, that treatment was less favourable.

Anya v University of Oxford & Another [2001] IRLR 377 - it is necessary for the employment tribunal to look beyond any act in question to the general background evidence in order to consider whether prohibited factors have played a part in the employer's judgment. This is particularly so when establishing unconscious factors.

Igen v Wong and Others [2005] IRLR 258 and Madarassy v Nomura International PLC [2007] IRLR 246.

The employment tribunal should go through a two-stage process, the first stage of which requires the claimant to prove facts which could establish that the respondent has committed an act of discrimination, after which, and only if the claimant has proved such facts, the respondent is required to establish on the balance of probabilities that it did not commit the unlawful act of discrimination. In concluding as to whether the claimant had established a prima facie case, the tribunal is to examine all the evidence provided by the respondent and the claimant.

Madarrassy v Nomura International Ltd 2007 ICR 867 - the bare facts of the difference in protected characteristic and less favourable treatment is not "without more, sufficient material from which a tribunal could conclude, on balance of probabilities that the respondent" committed an act of unlawful discrimination". There must be "something more".

Nagarajan v London Regional Transport [1999] IRLR 572, HL, -The crucial question in every case was, *'why the complainant received less favourable treatment ... Was it on grounds of race? Or was it for some other reason, for instance, because the complainant was not so well qualified for the job?'*

Chief Constable of West Yorkshire Police v Khan [2001] UKHL 48, [2001] IRLR 830, [2001] ICR 1065, HL, - The test is what was the reason why the alleged discriminator acted as they did? What, consciously or unconsciously was their reason? Looked at as a question of causation ('but for ...'), it was an objective test. The anti-discrimination legislation required something different; the test should be subjective: *'Causation is a legal conclusion. The reason why a person acted as he did is a question of fact.'*

Bahl v Law Society [2003] IRLR 640 – *"where the alleged discriminator acts unreasonably then a tribunal will want to know why he has acted in that way. If he gives a non-discriminatory explanation which the tribunal considers to be honestly given, then that is likely to be a full answer to any discrimination claim. It need not be, because it is possible that he is subconsciously influenced by unlawful discriminatory considerations. But again, there should be proper evidence from which such an inference can be drawn. It cannot be enough merely that the victim is a member of a minority group. This would be to commit the error identified above in connection with the Zafar case: the inference of discrimination would be based on no more than the fact that others sometimes discriminate unlawfully against minority groups."*

Conclusion

20. The issues between the parties which fell to be determined by the Tribunal were set out above. We have considered first the claimant's claims under the EQA before moving on to consider the claim for constructive unfair dismissal. We also had to determine whether the discrimination allegations were presented within the time limits set out in 123(1)(a) & (b) of the EQA and if not whether time should be extended on a "just and equitable" basis. We have considered first the substance of the complaints, before returning to the issue of time limits and whether we have jurisdiction. We have approached some of the issues in a different order but set out our conclusions on each issue below:

EQA, section 13: direct discrimination because of race/religion

21. The claimant identifies as an Asian Pakistani Muslim. The claimant expressed strongly his view that he had been subject to discrimination on the grounds of his race and/or religion. Whilst we accept that these views were genuinely held at the time of the Tribunal we were not necessarily clear that the claimant held this views at the time much of the conduct complained about took place and his views on this appear to have crystallised over time perhaps as he became aware of complaints made by colleagues (in particular because of the lack of complaint at the time it is said to have occurred). In any event, in all instances for us to reach the conclusion that the claimant has been subjected to such discrimination, there must be evidence, although it is possible that evidence could be inferences drawn from relevant circumstances. A belief, that there has been unlawful discrimination, however strongly held is not enough.
22. In order to decide the complaints of direct race and/or religious discrimination, we had to determine whether the respondent subjected the claimant to the treatment complained of (which is set out at paragraphs 3.2.1 to 3.2.10 of the List of Issues above and then go on to decide whether any of this was "less favourable treatment", (i.e. did the respondent treat the claimant as alleged less favourably than it treated or would have treated others ("comparators") in not materially different circumstances). We had to decide whether any such less favourable treatment was because of the claimant's race or his religion/belief.
23. We applied the two-stage burden of proof referred to above. We first considered whether the claimant had proved facts from which, if unexplained, we could conclude that the treatment was because of race or religion/belief. The next stage was to consider whether the respondent had proved that the treatment was in no sense whatsoever because of race or religion/belief. We also had to determine whether the allegations were presented within the time limits set out in 123(1)(a) & (b) of the EQA and if not whether time should be extended on a "just and equitable" basis. We have considered first the substance of the complaints, before returning to the issue of time limits and whether we have jurisdiction to

consider the complaints. We set out below our conclusions on these matters for each allegation listed in the LOI with reference to each paragraph number where the allegation is listed:

3.2.1 - Did the Respondent micromanage the Claimant's start times?
Namely:

24. There were two aspects to that allegation which we have considered separately.

3.2.1.1 Did PH require the Claimant to arrive at work before 08.00 and leave after 17.00 during his probationary period in 2018?

25. We refer to our findings of fact at paragraph 10.5 to 10.7 above. The allegation was made out only in part in that we find that the claimant was instructed on 2-3 occasions by PH to arrive at work at approximately 8.00 a.m., but we did not find that the claimant was instructed by PH that he must leave after 5.00. We also did not find that the claimant was required or forced to start work at this time. We went on to consider whether the instructions given by PH to the claimant about his arrival at work on these 2-3 occasions was less favourable treatment on the grounds of race or religion/belief. We were unable to conclude that it was. Firstly, as we refer to at paragraph 10.7.4 above we were unable to make any findings of fact about the working hours of comparable colleagues that were not of the claimant's race/religion and how they were treated by PH in this respect. The claimant was simply unable to show any aspect of less favourable treatment at all. He complained about the way he was treated but did not show that there was any difference in treatment save for his own bare assertions that this was the case. The claimant has not proved primary facts from which the Tribunal could conclude that what was done by PH was because of race/religion, we do not find that this shifts the burden of proof to explain the reason for the treatment. We conclude that the reason why PH had raised the issue of start times with the claimant on these 2-3 occasions that week was because he believed the claimant was not arriving with sufficient time to be ready to start 9am lectures (see paragraph 10.7). This clearly explains why the matter was raised with him and we find that had the burden of proof shifted to the respondent, they would have discharged it. This allegation of direct race/religious discrimination fails and is dismissed.

3.2.1.2 Did PH notify the Head of School (in 2019), MA, about the Claimant's late arrivals and was the Claimant issued with warning during his probationary period as a result?

26. We refer to our findings of fact at paragraph 10.8 to 10.11 above. PH did notify MA on one occasion about the claimant arriving late. We do not find that the claimant was issued with a warning during his probationary period at all whether because of his alleged late arrival or otherwise. This allegation is in part made out on the facts.

27. We then went on to consider whether the PH notifying MA about this amounted to less favourable treatment (issue 3.3 above) and if so whether the claimant was treated less favourably than his White Christian colleagues. Our conclusions were that this was not the case and not met the first stage of showing a prima facie case that this was discrimination, nor indeed provided any credible evidence that there was any less favourable treatment because:

27.1 There is no evidence to suggest that any other employee in the same situation as the claimant i.e. an employee on probation who was not the claimant's race or religion would have been treated differently and we heard no real evidence on this. Indeed, we have no information at all about the religion of any alleged comparators.

27.2 Again, we conclude that the reason why PH chose to raise this with MA was because the claimant had arrived at a time he considered to be unsuitable on 2-3 occasions that week. This clearly explains why this took place. Whilst the claimant may have been unhappy about what he saw as interference with his independence as to working hours, there is simply nothing to suggest that the claimant's race or religion was a factor in this.

This allegation is dismissed.

3.2.2 - Did the Respondent require the Claimant to work more than his contracted 35 hours per week? Namely,

3.2.2.1 Did PH force the Claimant to work more than 45 hours per week during his probationary period in 2018?

28. We refer to our findings of fact at paragraph 10.14 to 10.16 above. We did not find that the respondent or PH on its behalf required the claimant to work more than his contracted hours or forced him to work more than 45 hours per week during his probationary period. This allegation fails on the facts and is dismissed.

3.2.3 - Did the Respondent provide the Claimant with an excessive workload? Namely,

3.2.3.1 is the Claimant's assertion that he was forced to mark assignments over the weekend for one semester correct and when he refused to do so, he was allocated an unfair workload beyond his ability and capability?

29. We refer to our findings of fact at paragraph 10.12 to 10.13 above. This allegation is not made out as pleaded by the claimant although we did find that the claimant was asked to carry out additional marking on the Hong Kong module. This one part of the allegation is therefore partly made out. Therefore, we went on to consider whether this amounted to less favourable treatment (issue 3.3 above) and if so whether the

claimant was treated less favourably than his White Christian colleagues. Our conclusions were that this was not the case as the claimant has not shown any evidence to suggest (or from which we could infer) that there was less favourable treatment nor that this was due to his race/religion. We accepted the explanation of the respondent that the claimant was asked to assist PH in marking this module following a discussion that took place about his availability between PH and MA. It is not related to race/religion. This allegation of direct race discrimination fails.

3.2.3.2 Was there continued interference with the Claimant's workload by PH?

30. We refer to our findings at paragraph 10.20 above. This allegation is dismissed as having not been made out on the facts.

3.2.4 - Did the Respondent require the Claimant to work on weekends and/or whilst he was on sick leave? Namely:

3.2.4.1 Did PH force the Claimant to work in November/December 2021 whilst he was on annual leave in order to obtain medical treatment in Pakistan?

There was much discussion about this allegation and its timing during the hearing and we set out above what we as a Tribunal decided in relation to the various applications that were made. The allegation that was before us after all such allegations were considered is set out above. We set out our findings of fact on these allegations at paragraphs 10.35 above. This allegation fails on the facts and is dismissed.

3.2.4.2 Subsequently, upon contracting Covid-19 in November 2021 and being placed on sick leave, did PH force the Claimant to work during that period?

31. As per our findings at paragraph 10.30 above, this allegation is dismissed as not being made out on the facts.
32. We did not find that the claimant had shown that PH forced the claimant to work in November 2021 upon contracting Covid 19 or in December 2021 whilst he was on annual leave to obtain medical treatment in Pakistan. For completeness we also refer to our findings of fact at paragraphs 10.45 to 10.48 above which is also relevant to the allegation the claimant makes at Paragraph 3.2.5 above. We were not satisfied that the claimant was forced to work at all in January or February 2022 either by PH or anyone else at the respondent. This allegation fails on the facts and is dismissed.

3.2.5 - Did the Respondent halt the Claimant's research funding?

33. This allegation has two distinct parts, so we have considered each individually.

3.2.5.1 Was the Claimant required to contact PH whilst he was on sick leave in October 2021 on 4 February 2022 to discuss the pausing of a payment process for one of the Claimant's research projects?

34. We refer to our findings of fact at paragraphs 10.45 to 10.48 above. In the first instance the claimant was not required by PH or anyone at the respondent to contact PH at all (albeit we accepted that he felt he should so so). This allegation is not made out factually.

3.2.5.2 Did PH intentionally delay submitting the reports and approving the expenses for the Claimant's 2019-RLWK11-10237 research project by 3 months?

35. Our findings of fact at paragraphs 10.42 to 10.44 above were that PH did not intentionally delay submitting reports or approving expenses for this project by 3 months. This is dismissed on the facts.
36. On this more general allegation of halting funding, we have gone on to consider whether anything done by PH at this time or earlier which led to the claimant contacting PH on 4 February 2022 amounted to less favourable treatment (issue 3.3 above) and if so whether the claimant was treated less favourably than his White Christian or White colleagues. Our conclusions were that this was clearly not the case. The claimant has not met the first stage of showing a prima facie case that this was discrimination, nor indeed provided any credible evidence that PH treated him less favourably than an actual or hypothetical comparator on the grounds of race/religion in the way this issue of expense approval was handle. We conclude this for the following reasons:
- 36.1 We accepted the explanation of PH as to what took place with this approval process and the contemporaneous e mails at the time detailed at paragraphs 10.42 to 10.45 clearly show the issues arising with the finance team about processing and paying this particular invoice. This explanation and documentary evidence was eminently plausible and convincing.
- 36.2 There was no evidence that any other employee who had submitted expenses for approval would have been treated any differently. Indeed, we accepted the evidence of PH that this was a general issue that had arisen at this time and was causing delays in invoice processing to others as well

Therefore, as the claimant has not proved primary facts from which the Tribunal could conclude that the complaint was because of race/religion, we do not find that this shifts the burden of proof to explain the reason for the treatment. Even if the burden had shifted it, the respondent would have discharged that burden. This treatment was not because of race/religion. This allegation is dismissed.

3.2.6 - Did the Respondent delay the Claimant's grievance process?
Namely,

3.2.6.1 Did the Respondent delay in beginning to investigate the
grievance raised by the Claimant in February 2022?

3.2.6.2 Was the Claimant's grievance delayed following the Claimant
raising concerns regarding the appropriateness of DP being appointed as
the investigating officer?

37. We refer to our findings of fact at paragraphs 10.49 to 10.59 above about the claimant's grievance and how it was progressed. We do not conclude there was a particularly long delay in the respondent beginning to investigate the claimant's grievance, nor was there a particular delay in progressing the grievance following the concerns raised by the claimant about the appropriateness of DP. As such this allegation as set out is not made out on the facts. We have gone on though to consider more generally the grievance and the length of time it took to complete this and considered whether any delays amounted to delay amounted to less favourable treatment (issue 3.3 above) and if so whether the claimant was treated less favourably than his White Christian or White colleagues. Our conclusions were that the claimant has not proved any facts which firstly show that there was any less favourable treatment or from which, if unexplained, we could conclude that the treatment was because of race/religion because:

37.1 The delay in the early part of the grievance process (which we did not find were significant) was primarily caused by the claimant's objections to the individuals identified by the respondent to carry out the investigation (see paragraphs 10.51 to 10.52). These objections were handled by the respondent promptly and fairly and we could not see how there was any connection to the claimant's race or religion about what took place.

37.2 We accepted the explanation of the respondent that later delays (which were more significant and clearly impacted the claimant) were caused largely by the organisational change that was taking place at the respondent at the time (paragraphs 10.57-8). This clearly impacted on the HR support available to the respondent's investigator and slowed the process down

We cannot see anything in our fact finding either directly or by inference which suggests that there was any connection between the claimant's race/religion and any delay to this grievance process. This complaint therefore does not succeed.

3.2.7 - Did the Respondent violate the contract with the Claimant's
funder? Namely,

3.2.7.1 In November 2021, did Dr Hampton spend the Claimant's grant money on banners and zap stands for use by the School in violation of the terms of the funder's contract and the Respondent's internal procedures?

38. Our findings of fact about the issue about the issue of zap stands and banners are at paragraphs 10.32 to 10.34 above. Whilst the allegation is not proved by the claimant in full, we did find that the respondent printed zap stands which did not show the correct BC logo and as such accept the contention of the claimant that there was a breach of the terms of the grant issued by BC. We have gone on to consider whether this amount amounted to less favourable treatment of the claimant (issue 3.3 above) and if so whether the claimant was treated less favourably than his White Christian or White colleagues. Our conclusions were that this was not the case because, we could not conclude that DP knew about these requirements in advance, and we found that he was reliant on the claimant to provide him with detail about this. We find that any issues around incorrect printing were in error rather than because of any deliberate or malicious intent by PH with racist motives. This is not an allegation that is logical or makes sense in the context of our findings. The claimant's race/religion was not the reason why any of the issues with printing arose and this allegation is dismissed.

3.2.8 - Did the Respondent delay in completing the Claimant's paperwork for one of his research projects? Namely:

3.2.8.1 Did PH intentionally delay submitting the reports and approving the expenses for the Claimant's 2019-RLWK11-10237 research project by 3 months?

39. Our findings of fact about this research project and the approval of reports and expenses relating to it were at paragraphs 10.42 to 10.44 above and our conclusions on this identical allegation made at paragraph 3.2.5.2 of the List of Issues are also set out at paragraph 36 above. This allegation is dismissed for the same reasons.

3.2.9 - Were the Claimant's BAME colleague prevented from attending the claimant's research events? Namely:

3.2.9.1 Did PH prevent the Claimant's BAME colleagues from attending the Claimant's research workshops/events?

3.2.9.2 Did PH shout at two of the Claimant's BAME colleagues and say that "it won't happen under my watch?" in reference to attending the Claimant's research workshops/events?

40. Our findings of fact about this allegation which related to the attendance at the conference which took place at Brighton University were at paragraphs 10.25 to 10.28 above. The facts behind the allegation were

made out in part in that we were satisfied that OO and LO were prevented from attending the Brighton University conference and we were satisfied that PH made a comment along the lines of "*it won't happen under my watch*" in relation to their attendance. We were not satisfied that PH shouted at these individuals. Therefore, we have gone on to consider whether the actions of PH in relation to this incident amounted to less favourable treatment of the claimant (issue 3.3 above) and if so whether the claimant was treated less favourably than his White Christian or White colleagues. Our conclusions were firstly that it was hard to conclude that the failure to allow other individuals to attend a conference amounted to less favourable treatment of the claimant. This is not a claim brought by either OO or LO. The claimant clearly attended the conference and was supported fully in doing so. We have however gone on to consider whether the decision of PH not to permit these two colleagues to attend was related to the claimant's race. We conclude that the claimant has not proved any facts which firstly show that, if unexplained, we could conclude that this treatment was because of race/religion. In particular:

- 40.1 The claimant and other colleagues of a BAME background were supported in their attendance at various other events that took place by PH (see paragraph 10.25 above). This does not suggest that the claimant's race was a factor in decision making about Brighton.
- 40.2 We conclude that it was the fact that the conference was taking place at Brighton University and not at the respondent that was the main reason that PH decided to restrict the attendance of colleagues. He felt the claimant should have organised it at the respondent (not being aware of the location being unsuitable) and we feel that MA having just left to become Dean there, was relevant to PH's view and decisions made about this.
- 40.3 There is insufficient evidence about decisions made by PH about other events and the factors considered for us to draw any inference about the reason this took place on this occasion being about race. The claimant's bare assertions were insufficient for us to do this

This allegation is therefore dismissed.

3.2.10 - Was the Claimant forced/pressurised to write PH's name on the Claimant's publications and research grants?

41. Our findings of fact about this allegation are set out at paragraph 10.21 above. The claimant was unable to prove that this ever took place, and this allegation fails in its entirety on the facts and is dismissed.
42. Given that none of the complaints for direct discrimination have succeeded we do not need to go on to consider whether there was conduct extending over a period and if not, whether the claims were

made within a further period that the Tribunal thinks is just and equitable. All the claims failed having been considered fully on their merits.

Constructive unfair dismissal

43. As there was no express dismissal in this claim, we had to consider whether the claimant has established that he was dismissed by virtue of section 95 (1) (c) ERA in that he resigned in circumstances in which he was entitled to treat himself as dismissed.
44. We considered each of the matters relied upon as being a fundamental breach of contract (issues 3.2.1 to 3.2.10 above), looking at whether such events happened as alleged (issue 4.2 above) and then whether they amounted to a breach of the implied term of trust and confidence (issue 4.3), deciding for each matter whether the respondent behaved in a way that was calculated or likely to destroy or seriously damage the trust and confidence between the claimant and the respondent; and whether it had reasonable and proper cause for doing so. We considered the question of whether there was a breach of the implied term of trust and confidence on each allegation individually and on all cumulatively (issue 4.4). If breach was established, we had to then go on decide whether the claimant affirmed or waived any such breaches (issue 4.6) and whether the claimant resigned in response to any breach that is found (issue 4.5).
45. Dealing with each matter relied upon in turn we conclude the following:
- 3.2.1 - Did the Respondent micromanage the Claimant's start times?
Namely:
- 3.2.1.1 Did PH require the Claimant to arrive at work before 08.00 and leave after 17.00 during his probationary period in 2018?
46. We again refer to our findings of fact at paragraph 10.5 to 10.7 above. The claimant was instructed on 2-3 occasions by PH to arrive at work at approximately 8.00 a.m., but we did not find that the claimant was instructed by PH that he must leave after 5.00. We also did not find that the claimant was required or forced to start work at this time. However, we conclude that this act of PH in instructing the claimant about his start times is not a breach of contract. Whilst there was considerable flexibility about working hours (see paragraph 10.3) start times on days when the claimant was teaching were matters that could and were legitimately and reasonably have been raised by PH as the claimant's line manager. The claimant was expected under his contract of employment to work "*such hours as are reasonably necessary*" to carry out his duties. PH's primary concern was that the claimant attended properly to his teaching duties and attended in the morning in good time to prepare for and set up lectures. Whilst the claimant may have had many other important responsibilities in his research capacity, we find that a line manager

instructing a junior employee to attend at a particular time is not conduct which was calculated or likely to destroy or seriously damage trust and confidence.

3.2.1.2 Did PH notify the Head of School (in 2019), MA, about the Claimant's late arrivals and was the Claimant issued with warning during his probationary period as a result?

47. We refer to our findings of fact at paragraph 10.8 to 10.11 above. PH did notify MA on one occasion about the claimant arriving late. We do not find that the claimant was issued with a warning during his probationary period at all whether because of his alleged late arrival or otherwise. For similar reasons as set out above, we conclude that PH's actions in raising the issue of start times with MA (who he regarded as being more involved in what the claimant was doing from a research capacity) can not be seen to be conduct calculated or likely to destroy the relationship of trust and confidence. It might have been better for PH not to have used the language he did about the claimant needing a watch, but we do not find this single comment is sufficient to amount to a fundamental breach of the claimant's contract.

3.2.2 - Did the Respondent require the Claimant to work more than his contracted 35 hours per week? Namely,

3.2.2.1 Did PH force the Claimant to work more than 45 hours per week during his probationary period in 2018?

We refer to our findings of fact at paragraph 10.14 to 10.16 above. Neither the respondent or PH on its behalf required the claimant to work more than his contracted hours or forced him to work more than 45 hours per week during his probationary period.

3.2.3 - Did the Respondent provide the Claimant with an excessive workload? Namely,

3.2.3.1 is the Claimant's assertion that he was forced to mark assignments over the weekend for one semester correct and when he refused to do so, he was allocated an unfair workload beyond his ability and capability?

48. We refer to our findings of fact at paragraph 10.12 to 10.13 above. This allegation is not made out as pleaded by the claimant although we did find that the claimant was asked to carry out additional marking on the Hong Kong module. For very similar reasons as above, the claimant has not been able to show that being instructed to carry out these tasks by his line manager, PH was conduct which was calculated or likely to destroy trust and confidence. This was a reasonable management instruction and we concluded that it was done because the claimant at that time was perceived to have a lighter teaching workload and was done in consultation with MA regarding other work.

3.2.3.2 Was there continued interference with the Claimant's workload by Dr Hampton?

49. We refer to our findings at paragraph 10.20 above. This allegation was not made out.

3.2.4 - Did the Respondent require the Claimant to work on weekends and/or whilst he was on sick leave? Namely:

3.2.4.1 Did Dr Hampton force the Claimant to work in November/December 2021 whilst he was on annual leave in order to obtain medical treatment in Pakistan?

This allegation was not made out.

3.2.4.2 Subsequently, upon contracting Covid-19 in November 2021 and being placed on sick leave, did PH force the Claimant to work during that period?

50. As per our findings at paragraph 10.30 above, this allegation was not made out.

3.2.5 - Did the Respondent halt the Claimant's research funding?

3.2.5.1 Was the Claimant required to contact PH whilst he was on sick leave in October 2021 on 4 February 2022 to discuss the pausing of a payment process for one of the Claimant's research projects?

51. We refer to our findings of fact at paragraphs 10.45 to 10.48 above. In the first instance the claimant was not required by PH or anyone at the respondent to contact PH at all (albeit we accepted that he felt he should do so). This allegation is not made out factually. Moreover, and most importantly as this all took place after the claimant had already resigned, it cannot have been a relevant factor in the claimant's decision to resign and so we have not considered it further for this claim.

3.2.5.2 Did PH intentionally delay submitting the reports and approving the expenses for the Claimant's 2019-RLWK11-10237 research project by 3 months?

52. Our findings of fact at paragraphs 10.42 to 10.44 above were that PH did not intentionally delay submitting reports or approving expenses for this project by 3 months. Moreover, the main thrust of this complaint related to a period after the claimant had already resigned in December 2021 and thus cannot have been a relevant factor in the claimant's decision to resign.

3.2.6 - Did the Respondent delay the Claimant's grievance process? Namely,

3.2.6.1 Did the Respondent delay in beginning to investigate the grievance raised by the Claimant in February 2022?

3.2.6.2 Was the Claimant's grievance delayed following the Claimant raising concerns regarding the appropriateness of DP being appointed as the investigating officer?

53. We refer to our findings of fact at paragraphs 10.49 to 10.59 above about the claimant's grievance and how it was progressed. Whilst there was delay this cannot have been a relevant factor as this took place long after the claimant had already resigned in December 2021.

3.2.7 - Did the Respondent violate the contract with the Claimant's funder? Namely,

3.2.7.1 In November 2021, did Dr Hampton spend the Claimant's grant money on banners and zap stands for use by the School in violation of the terms of the funder's contract and the Respondent's internal procedures?

Our findings of fact about the issue about the issue of zap stands and banners are at paragraphs 10.32 to 10.34 above. Whilst the allegation is not proved by the claimant in full, we did find that the respondent printed zap stands which did not show the correct BC logo and as such accept the contention of the claimant that there was a breach of the terms of the grant issued by BC. However, we were not satisfied that this was conduct that was calculated or likely to destroy the relationship of trust and confidence. We concluded above that this was largely an error and there was no deliberate act designed to discredit the claimant. Moreover, it was the claimant who had the primary knowledge and information about the BC requirements for printing and accordingly could and perhaps should have taken a more active role in ensuring that these were complied with.

3.2.8 - Did the Respondent delay in completing the Claimant's paperwork for one of his research projects? Namely:

3.2.8.1 Did PH intentionally delay submitting the reports and approving the expenses for the Claimant's 2019-RLWK11-10237 research project by 3 months?

54. Our findings of fact about this research project and the approval of reports and expenses relating to it were at paragraphs 10.42 to 10.44 above which was not made out.

3.2.9 - Were the Claimant's BAME colleague prevented from attending the claimant's research events? Namely:

3.2.9.1 Did PH prevent the Claimant's BAME colleagues from attending the Claimant's research workshops/events?

3.2.9.2 Did PH shout at two of the Claimant's BAME colleagues and say that "it won't happen under my watch?" in reference to attending the Claimant's research workshops/events?

55. Our findings of fact about this allegation which related to the attendance at the conference which took place at Brighton University were at paragraphs 10.25 to 10.28 above. The facts behind the allegation were made out in part in that we were satisfied that OO and LO were prevented from attending the Brighton University conference and we were satisfied that PH made a comment along the lines of "*it won't happen under my watch*" in relation to their attendance. We were not satisfied that PH shouted at these individuals. However, we are unable to conclude that PH's actions here regarding the attendance of these two individuals had any connection at all to the claimant's contract of employment. We do not conclude that preventing the attendance of other people or making a comment to them could amount to conduct calculated or likely to destroy the relationship of trust and confidence between the claimant and the respondent.

3.2.10 - Was the Claimant forced/pressurised to write Dr Hampton's name on the Claimant's publications and research grants?

56. Our findings of fact about this allegation are set out at paragraph 10.21 above. The claimant was unable to prove that this ever took place.
57. Although, we determined that there was no repudiatory breach of contract in each of the individual acts alleged, we went on to consider whether there was a course of conduct that, viewed cumulatively amounted to a repudiatory breach of the implied term of trust and confidence. Looking at our conclusions set out above, we also concluded that the acts relied upon, even viewed as a course of conduct, would not cumulatively amount to conduct calculated and likely to destroy or seriously damage the relationship of trust and confidence. The claimant believed that PH was in almost every interaction he had with him behaving in a racist manner and behaving in a manner designed to destroy trust and confidence. We accept that the relationship between the claimant and PH was not a good one. They were involved in entirely different aspects of academic life with the claimant being at the forefront of research projects and PH being more focused on what was described as the student experience (see paragraph 10.4 above). The claimant was clearly a very capable, ambitious, and highly intelligent academic and in our view, he did not value the opinion of or instructions that were given to him by PH. We also conclude that the timing of the claimant's resignation being very shortly after PH was appointed as Head of School is telling. The claimant perhaps felt that being in the School under the direction of PH who he perhaps did not respect as an academic and value as much as the previous head of school, MA was not what he wanted to do. Moreover, the new role was more suitable to the claimant's other needs being a remote role and was at a higher salary (albeit we

accept a step back in terms of progression). We simply cannot conclude that the respondent did anything which was calculated or likely to destroy or damage trust and confidence such that the claimant was entitled to resign and treat himself as dismissed. We conclude that the claimant resigned to work at an organisation more suited to his needs and where he had freedom to pursue his own academic pursuits.

58. The claimant therefore did not resign, in response to a repudiatory breach of contract. No issue of affirmation needs to be considered as there was no breach of contract in the first place. The claimant was not constructively dismissed by the respondent, it cannot be an unfair dismissal and the claim is dismissed.

Employment Judge Flood

Date: 16 January 2024