

GOV.UK Employment tribunal decisions

Some 75 decisions index: Brexit and referendum since Feb 2017:

1) Miss Gisele H da Cruz Andrade v East London NHS Foundation Trust: 3202447/2019
Decided: 16 October 2020 Jurisdiction code: Disability Discrimination, Race Discrimination, Redundancy, Sex Discrimination, Unfair Dismissal, Unlawful Deduction from Wages
Unrepresented

Preliminary Hearing:

“in February 2019 **moved to a Brexit project** until the end of her fixed term and was then briefly in the estates department after 30 June 2019”

“Andrade last worked for the Respondent on 05 July 2019. She remained on the bank until 31 December 2019, but **was signed off as unfit for work by reason of stress**”

“The Claimant was employed by the Respondent from 06 September 2016 until 30 June 2019. Accordingly, she has the two years’ qualifying service needed to bring a claim for unfair dismissal. 2. On 30 June 2019 the Claimant was dismissed by reason of **redundancy**.”

“The existing case management orders remain to be followed, and the case remains listed for hearing 2-5 February 2021 (which may need to be a virtual hearing).”

2) Carlos Rafael Mujia-Zambrana v Citybus Limited: 390/19
Decided: 11-12 September 2019

Racial discrimination(Spanish) and harassment

Claimant unrepresented

All dismissed as out of time /despite very serious continuous acts

“he had been subjected to racial comments and remarks by Inspector McCullough **over a period of 18-24 months**. Specifically, the claimant alleged as follows: - **“In June 2017 while I was working Inspector McCullough made a comment about me needing a work permit soon like the rest of the foreigners, or soon it will be no foreigners in this country and you would have to leave. In asking me about political unrest of Spain saying that I will be a foreigner here and in Spain or why the colour of my skin wouldn’t change coming back from Holidays.”**(June 2017)

McCullough allegedly said to him – **“Why are you in the sun you don’t change colour”**.

“27. Mrs Fisher then asked what racist comments he made and the claimant provided two comments.

(i) **Now foreigner what are you going to do – with Brexit, no passport?**

(ii) **What tan are you going to get, you’re almost black.”**

“I raised my concerns with management and **lodged a formal complaint of harassment**.”

“After all interviews were finished I was told by the manager literally that after interviewing Mr McCullough that all the comments were made in **a bit of a banter and were light-hearted**.”

“6. **The claimant has been employed by the respondent for approximately 17 years** and continues to be so employed. At the time of the tribunal hearing the claimant was **off work following an assault in the course of his duties**.”

“79. Thus **while the claimant may well have succeeded to some degree** had he brought his claim within time he failed to do so and we do not consider that it would be just and equitable to extend time. **The claim must therefore be dismissed**.”

- 3) Mr C Brice v SynApps Ltd: 3321615/2019
Decided: 4 September 2020
Unlawful Deduction from Wages
Represented, Upheld

“The claimant also gave evidence that he inherited a sales pipeline of £6M which, **due to Brexit pressures**, “Halved within a month”.

- 4) Mr E Petrica v Central London Community Healthcare NHS Trust: 3327705/2017 and 335871/2017
Decided: 31 May 2019 :
Public Interest Disclosure, Race Discrimination, Unfair Dismissal
London Central
The unanimous judgment of the Tribunal is that **all the claims are dismissed.**

5. In these further and better particulars, the Claimant described himself as being “East European from **Romania**” and later claimed that he had: **been treated less favourably because of my Eastern European national origins, treated as a bargain cheap, in the context of Brexit and this led to do admin for Enuresis without being paid.** I am being compared with British female Nikita Voralia (Admin for Enuresis Service) and clinical staff for Enuresis Service (Cathy Linton, Priscilla Chaba) but being paid for this.

- 5) Ms Alison Roberts v Spandex UK Ltd: 1400597/2017
Decided: 31 July 2020
Maternity and Pregnancy Rights, Sex Discrimination, Unfair Dismissal
Represented 131pgs Judgment!
Upheld only Unfair Constructive dismissal

“Allegations (c) to (f)

134. On 23 June 2016 the result of the **EU referendum** was that the UK voted to leave the EU.

135. We heard uncontested evidence which **we accept as to the impact of the referendum result on the Respondent.** There was an immediate impact on currency exchange rates with the Pound becoming weaker against other global currencies. This impacted on the Respondent’s purchase pricing which **increased between 9% to 14% depending on the currency (Euro, US Dollar, Yen)** with the result that the Respondent’s products would become more expensive for its UK customers.

136. We accept Mr Watson’s evidence that due to uncertainty around what Brexit would mean for the UK the view was taken by the Respondent that such price increases could not be absorbed and would need to be passed on immediately to its customers. The Respondent also needed to make cost savings in the region of £100,000.

137. **This was the context for the restructure** which took place in the weeks following the referendum result.

138. Mr Watson gave evidence, which was not disputed, that he began working on the restructure during the last week of June 2016 and the first week of July 2016. Broadly he decided that the best strategy would involve a combination of (a) operational cost reduction (e.g. freight, packaging); (b) more focus on operational and sales excellence; and (c) focus on high growth markets such as textiles and interiors.”

“630. There was no dispute that:

630.1 the Brexit referendum result had an immediate adverse impact on the Respondent.

630.2 Mr Watson genuinely perceived the effects of Brexit would have further adverse impacts on the Respondent's profitability."

6) Ms E Vankova v Contardo Imaging Ltd: 3333413/2018

Decided: 13 April 2020

Breach of Contract, Race Discrimination, Unfair Dismissal, Working Time Regulations
Watford

Unrepresented

The claimant issued proceedings in this matter on 23/09/2018. Hearing 16&17Mar2020!

**Automatically unfair dismissal, direct race discrimination, unpaid annual leave-dismissed
Breach of contract relating to her notice period- successful**

Omitted public disclosure on health&safety

Claimant Russian on sponsored Visa by this employer / treated in similar way narrative as EU Citizens at the time (Eastern Europe)

"24. The respondent has a very diverse workforce. It employed 104 individuals of which only 13 are of UK nationality. **73 are EU nationals** and 18 are from the rest of the world. **The claimant told the tribunal that she believed Mr Childs employed so many foreign nationals because he wanted to treat them less favourably.** The claimant says that she knew this was a strong statement but believed that she was evidence of her allegations. She told the tribunal that she believed Mr Childs could pay people less than those from the UK and that those people not from the UK are less likely to stand up to him if they have concerns. People depending upon Visa's cannot raise issues and there was a culture of fear in the respondent company. The claimant referred to an email sent by Mr Childs following the Brexit referendum dated 27/06/2016, prior to the commencement of the claimant's employment, indicating that Mr Childs had welcomed the outcome. The claimant says that this email showed Mr Childs to the anti-immigrant. This email states interalia:

As you know there has been a massive change in UK status with the **EU with vote for leave.** It's not a vote against European people... I voted leave, and after initial surprise, I feel a huge wave of opportunity ahead of us. It is better for us – all nationalities.... Your job, your lifestyle your place in Britain is secure. **This vote is not antiimmigration, despite how the news media presented it.** We are pro movement of people, have been for 1000 years and will continue. If anyone has a problem or question, or is having a bad experience in work or outside, please discuss it with me as I am keen to hear feedback and help. You have our support...."

7) Mr W Trela and Mr A Javaid v Tunstall Group Holdings Ltd: 1801836/2016 and 1801848/2016
Decided: 3 March 2017
UNLAWFUL DEDUCTIONS FROM WAGES/UPHELD for 2 Claimants
HULL

“I understood that the sale was then not to be pursued, in particular in the context of the **uncertainty** with the then impending Brexit vote.”2016

8) Miss **K Stefanko** and others v Maritime Hotel Ltd (in Voluntary Liquidation) and Mr N Doherty: 1401755/2016 and others

Decided: 2016 – 2020

CONTRACT OF EMPLOYMENT - Written particulars

RACE DISCRIMINATION – Direct

RACE DISCRIMINATION – Comparison

HARASSMENT – not considered by ET

“9. It is evident from the Tribunal’s Decision that **the Claimants were not well treated by their employer and were frequently sworn at** by the Second Respondent. **When they objected to persistent shortfalls in their wages, late payment and a falsification of their wage slips, they were summarily dismissed on 7 July 2016 (two weeks after the Brexit referendum)**, told to pack their bags and leave the hotel immediately. They did as they were requested but with nowhere else to go, got into their vehicle and drove to Dover and onwards to Poland.”

“13. The list of issues is taken from the ET1 and an earlier Preliminary Hearing. The narrative in the ET1 provided by the Claimants describes the dismissal having been undertaken in a particularly brutal manner and being accompanied with racially tainted language. The comments said by the Claimants to have accompanied the dismissal are set out in the claim form including comments such as, **“Fuck off from my hotel and take your Polish friends with you”**. Other similar comments and matters were recited in the Claimants’ witness statements.”

“16. The Tribunal found that although Mr Doherty did not call Ms Woronowicz a “self-centred Polish bitch” **he was very angry and told her that if she thought things were so bad, she should go back to Poland and that he repeatedly swore** and told the three of them to pack their bags and leave as they repeatedly requested the correct payment for their wages. **The Tribunal heard a recording** of the conversation with Mr Doherty, which corroborated the Claimants’ account that Mr Doherty had sworn at them and been extremely angry(...)”

ET found no discrimination in 2016.

On EAT appeal found discrimination, unfair dismissal, deductions from wages(25 Sep 2018, final Judgment Aug 2019 published Jan 2020). Respondent in voluntary liquidation by then.

EAT APPEAL - Miss K Stefanko and Others v 1) Maritime Hotel Ltd (in voluntary liquidation) 2) Mr N Doherty: UKEAT/0024/18/OO
Decided on 25 September 2018.

Category: Contract of Employment, Race Discrimination Sub-category: Contract of Employment - Written particulars, Race Discrimination - Comparison, Race Discrimination - Direct

Claimants: (1) MISS K STEFANKO APPELLANTS (2) MISS J WORONOWICZ (3) MR J JONIK
FRU Represented

The Employment Tribunal erred in concluding that an employee who has more than one but less than two months' service is not entitled to a section 1 Employment Rights Act 1996 statement of terms and conditions of employment. It does not follow from the flexibility afforded to an employer by section 1(2) as to when the statement of initial employment particulars must be provided, that there is no requirement to provide a statement if the contract ends within two months.

The Employment Tribunal's dismissal of the Second Claimant's claim under section 1 and refusal to make an award under section 38 Employment Act 2002 is set aside and substituted with a finding that the First Respondent was in breach of section 1. The case is remitted to a different Tribunal to calculate the award under section 38.

The Employment Tribunal erred in its approach to the Claimants' complaints of direct race discrimination in (1) not considering whether the manner, as well as the fact of dismissal, constituted direct race discrimination; and (2) in its application of the burden of proof to the evidence in its conclusion that the fact of dismissal did not constitute direct race discrimination. The complaint of direct race discrimination in dismissal is remitted to a new Tribunal for re-hearing.

Final ET judgment:

RESERVED JUDGMENT FOLLOWING REMITTAL BY
EMPLOYMENT APPEAL TRIBUNAL, AND RE-HEARING

ON: 22-24 July and 8 August 2019
Claimant's FRU Represented

“2. The claimants' claims of direct discrimination because of race against the first and second respondents, in respect of the manner of dismissal, are well founded.

3. The claimants' claims of direct discrimination because of race against the first and second respondents, in respect of the decision to dismiss, are not well founded.

4. The first respondent failed to provide the second claimant with written particulars of employment required by section 1 of the Employment Rights Act 1996.

Pursuant to the ruling of the Employment Appeal Tribunal, the second claimant's

award falls to be increased under section 38 of the Employment Act 2002.”

Remedy outline

“5. The first respondent is ordered to pay compensation for unauthorised deductions of wages as follows:”

“9. In respect of the compensatory award for unfair dismissal, the tribunal finds that the respondent unreasonably failed to comply with the applicable ACAS Code of Practice. The figures below include the 25% uplift.”

“10. The tribunal orders the following compensation for direct race discrimination; the first and second respondents are jointly and severally liable:

a. The respondents are ordered to pay the first claimant compensation of **£2,000.00 for injury to feelings.**

b. Interest of £554.52 is payable on the above sum.”

Other cases of Miss K Stefanko (post Brexit) – both unlawful deduction from wages and working time regulations

* Miss K Stefanko v Richard Martin: 2304285/2019

Employment Tribunal decision.

Decided: **15 April 2020** Contract of Employment, **Unlawful Deduction from Wages**, Working Time Regulations

1. The respondent owes the claimant 45.6 hours holiday pay.
2. The respondent is ordered to pay the claimant the total sum of £374.
3. The claim in respect of Employment Particulars does not succeed.

*Miss K Stefanko v Ms J Tavernier: 1401848/2016

Unlawful Deduction from Wages, Working Time Regulations

Decision judgment: 04 May 2017

Dismissed – Out of time

9) Miss K Paczkowska v R-Com Consulting Ltd: 2405428/2016

Decided: 2 September 2019

CLAIMS OF RACE, SEX, DISABILITY DISCRIMINATION AND (BREXIT)HARASSMENT, SEXUAL HARASSMENT, VICTIMISATION UNREPRESENTED

CASE LAUNCHED 03 DEC 2016

ALL 20 CLAIMS DISMISSED BUT 1 DISCRIMINATION VICTIMISATION (NO REMEDY 1.5 YEARS FROM JUDGMENT)

EAT FOUND 6 GROUNDS FOR APPEAL – ET ERRED ON 6 GROUNDS - 19 AUG 2020 HUMAN RIGHTS

Brexit harassment, Tribunal institutional racism and victimisation throughout (e.g. hindering of the case)

10) Mr R Porter v Secretary of State for International Trade: 3324662/2017

Decided: 30 January 2018

ADOPTION LEAVE dismissal/UPHELD/represented

Parental and Maternity Leave, Sex Discrimination

“70. We speculated on pressure to reduce costs, but could not understand why the **Brexit effect** was said to require more evidence-based focus, perhaps something which may have come from the refocusing earlier in the year. **As the effect of Brexit** may have been that staff were needed to **focus on negotiations with other countries**, or that there would be an increased focus on winning **non-EU orders**. We are left with Ms Kobewka’s assertion that the resource was overweight for the value of the campaign.”

“1. The claim of direct discrimination because of sex fails. 2. The claim of detriment for taking adoption leave is well founded.”

11) Miss L Vickers v Hill Biscuits Ltd and Mr David Ravenscroft: 2405509/2016

Decided: 25 May 2017

MANCHESTER

Race Discrimination, Sex Discrimination, Unfair Dismissal

Represented- CAB advisor

“The complaint of harassment related to sex is well-founded.

The complaints of harassment related to race, victimisation and constructive unfair dismissal are not well-founded and are dismissed.”

“7.1.2. The second allegation or issue was that set out at 3.3.1 of the case management summary, namely whether **Nila Mistry told the claimant to ask Asian and/or Polish workers to speak English,**

50. if the claimant interpreted that as being reprimanded it was as a result of poor performance alone.”

12) Ms I Smolarek v Tewin Bury Farm Ltd and Mr Wojciech Bobrowski: 3302054/2014

Decided: 2 August 2018

Breach of Contract, Sex Discrimination, Unfair Dismissal, Unlawful Deduction from Wages, Working Time Regulations

Watford

COST ORDERED FOR CLAIMANT

ALL DISMISSED, **UNREASONABLNESS OF CASE PROCEEDINGS (CLAIMANT NO ENGLISH SKILLS)**

2 EARLIER CASES OF DISCRIM DISMISSED WITH COSTS-TAKEN INTO CONSIDERATION BY ET

COSTS TO PUNISH NOT COMPENSATE

EAT ON ET COSTS RULLING: **“a need to punish the Claimant”**

It specifically referred to the previous claim in which the Claimant had faced a costs award, observing that this **“does not appear to have dissuaded her from bringing this claim”**

68). Further, when determining the appropriate level of the costs award, the ET considered it should be such as **“should make her consider very carefully whether or not to bring any claims in the future”**It had thus taken into account irrelevant factors; **the need to punish the Claimant and further to deter her from bringing further future claims. “**

13) Mr J Day v Alloga UK Ltd: 2601591/2016

Decided: 9 February 2017

Unfair Dismissal

Nottingham

DISMISSED

“4. What the events are all about is as to whether the Claimant told a Polish worker Izabela Witsinska (Izzy) inter alia to “go back to your own country”.

Izebela Witusinska (Izzy), who is Polish, and also the witness to what occurred: Santa Avotniece (Santa) who is Latvian.

29. This Judge is also very much aware, as it was widely publicised, and from my own knowledge as an Employment Judge, that many European Union workers in this country were fearful for their continued employment in the United Kingdom should **the outcome be Brexit. Would they have to return to their country of origin?**

30. In the context there is no doubt that the Claimant said something to her which caused her to become very upset indeed. Immediately after the incident she complained to a Manager. Supervisors were having a walk round. Therefore I had to wait until they returned, however James was still in the office and that's when he waved his hand at me to tell me to go away then that's when he said "**GO BACK TO YOUR OWN COUNTRY**". James Day was in office and he was talking about England leaving EU and he told Izabela that she should be going back to her own country, the words he said was (you should go back to your own country).

52. That brings me to the appeal. The Claimant raised his appeal on 1 September by e-mail (Bp 81): "My grounds of appeal are as follows.

Extreme punishment given previous employment record.

More severe punishment than those in other cases.

Reason to believe decision was predetermined.

Reason for decision not substantiated by evidence.

Investigation and disciplinary not held in accordance with company handbook guidelines or ACAS guidelines."⁵³. The appeal was heard by Paul Carter, General Manager

54. As to the disparity of treatment appeal point this particularly focused on the treatment of a Mr Johnson who was not dismissed. It is clear from what I have read and heard that the facts in that matter were clearly different and I have no other evidence before me to contradict that finding. The case of Mr Johnson was not about a supervisor making prima facie **discriminatory remarks at work** such as in this case.

55. As to the key focus of the appeal and the remark made to Izzy and its context, again the Claimant did not deny that he could have said something at least to the extent of "**could be packing your bags and going home**"."

14) Mr J Korpan v Magnox Ltd: 3306683/2018

Decided: 30 October 2019

Successful unfair and wrongful dismissal, Represented

"15. A witness states "culture on shift a bit childish (younger shift) banter about football, Brexit – immigrants on telly, strong views, racial remarks about Muslims

A witness states "Brexit, select core that have views that Muslims should go back to their own country"!"

15) Mr D M Carrasco v Edinburgh Language Academy Ltd: 4104590/2016

Decided: 21 April 2017

SCOTLAND/UNLAWFUL DEDUCTIONS FROM WAGES/Upheld (Spanish national/teacher)

“That the Claimant’s application for an Order requiring the Respondent to pay compensation of £4000 to him **“for all the stress caused during a critical moment in my life”** is refused, the Tribunal not having jurisdiction in terms of the Employment Rights Act 1996”

16) Mrs M Green v South Cave Kids Club: 1800950/2017

Decided: 11 April 2018

Age Discrimination, Race Discrimination, Unfair Dismissal /hull

“12. At paragraph 12 of Mr Green’s statement he states **“you must always remember that Marie Green was suspended less than a month before the EU referendum on 16 June 2016, when South Cave and the surrounding villages voted unanimously in favour of BREXIT.**”

No doubt this was determined by the negative light in which large amounts of Eastern Europeans are seen working as they do in the local horticultural and market gardening industries. The staff and management round this time, would make racist comments like ‘send the eastern European workers home’ or ‘these eastern European workers are taking our jobs’ knowing full well that Marie Green came from the **Czech Republic**. My wife would come home in fear of her life. She would shake physically and mutter ‘everybody at SKIDs hates me’”

“76. In Mr Green’s cross examination of the respondent’s witnesses he refers to this as the ‘race hate’ letter. In submissions Mr Green states “I can only deduce that it was some kind of **Race Hate Letter** because it had been **produced approximately 6 months before South Cave and the surrounding villages had strongly voted to BREXIT the EU based on the resentment for Migrant workers from Eastern Europe taking villages jobs and by implication as she was from Eastern Europe this resentment had also been applied to her”**”

17) Mr O Ogedegbe v ADT Fire and Security plc: 3303957/2018

Decided: 31 May 2019

Race Discrimination

Dismissed

“12. For what it is worth, we noted the claimant’s theory as to why Mr Scott would discriminate against him.

Mr Scott lives in Romford and that 70% of Romford residents voted ‘Brexit’ and there have been race attacks in Romford. No doubt all of those things are true but that does not mean that Mr Scott was racist or made any decision on the grounds of race. As a matter of evidential conjecture that is far too unscientific and itself prejudicial. But in any event, it was not Mr Scott, it was Ms Elliott who made the decision. “

18) Miss Prabha Pankhania v **Leicester City Council**: 2601807/2017 and 2600145/2019

Decided: 30 March 2020

Age Discrimination, Breach of Contract, Disability Discrimination, Part Time Workers, Race Discrimination, Unfair Dismissal

The Claimant presented her ET1 on **31 October 2017.**

Leicester

Represented

The complaints of race discrimination (Indian Asian) and disability discrimination(4 disabilities!) fail and are dismissed.

Remaining- dismissed upon withdrawal by the Claimant

“That from 1997 until July 2016, Ms Saxby marginalised the Claimant by isolating her, giving her menial tasks and excluding her from participating in tasks with the rest of the team.”

“That Ms Saxby, or the Respondent, made a decision to bully and harass the Claimant for “copying in” the Black Workers’ Support Group to an email dated 26 November 2015 (i.e given menial tasks and excluded from tasks).”

“87.In June 2016, **during the Brexit referendum election**, the claimant alleges that she was given menial tasks upon the instruction of MsSaxby. The Tribunal considered that the claimant was employed on the lowest job grade in the respondent’s **Electoral Services** department and her job description, unsurprisingly, includes a number of duties and tasks which might well be considered to be menial tasks. In that event, allocating such tasks as within the claimant’s job remit was not unreasonable. However, the Tribunal noted that the claimant performed a variety of tasks. The claimant’s evidence was that she handled external telephone enquiries. These required experience, and an in-depth knowledge of Electoral Services. The Tribunal considered that such tasks could not be described as menial and it was apparent from the claimant’s own evidence that she performed a variety of tasks many of which were not menial, and which she liked doing.”

“3. The allegations that from 1997 until July 2016, MsAlison Saxby of the Respondent refused the Claimant training, support, supervision, appraisals and marginalised the Claimant by isolating her, giving her menial tasks and excluding her from participating in tasks with the rest of the team as complaints of race, age and disability discrimination and less favourable treatment by reason of being a part-time worker are all struck out.”

“4. The allegation that a decision was made to reprimand the Claimant, to isolate and ignore her or to bully and harass her for“copying in” the Black Workers Support Group to an email dated 26 November 2015 and given menial tasks and excluded from tasks is not struck out nor is a deposit ordered as a complaint of race and age discrimination.”

19) Mr K Besz v Multi Packaging Solutions Ltd: 2602118/2016

Decided: 26 September 2017

Flexible Working, Race, Sex Discrimination, Unfair Dismissal /Nottingham

CLAIMANT REPRESENTED

The complaint of direct race discrimination is well founded and succeeds.

The complaint of harassment related to race is well founded and succeeds.

The complaint of “whistleblowing” detriment is not well founded and is dismissed.

The complaint of ordinary unfair dismissal is not well founded and is dismissed.

(i)The first such allegation concerns an alleged remark by MrVictory, made in the presence of the Claimant’s work colleagues, whilst he himself **was away in Poland, namely “I hope it’s a one way ticket”**. (allegation A)

(ii)The second allegation, alleged to have taken place in March2016, arose out of a discussion about Brexit during which MrVictory is alleged to have said words to the effect that **“after Brexit I will vote to send you back to Poland”** (allegation B).

(iv)The fourth allegation relied upon is said to have taken place in or around April 2016. It is again attributed to Mr Victory who is alleged to have said to the Claimant that he (i.e. the Claimant) “...did not understand English..” and accordingly “...did not know how to use a computer” (allegation D)”

20) Miss K Kovacova v Peter Sherwin t/a Henrietta House: 1400244/2017

Decided: 24 November 2017

Public Interest Disclosure, Unfair Dismissal, Unlawful Deduction from Wages, Working Time Regulations
Unrepresented

“The claimant (Czech)was employed as co-manager and receptionist./ The respondent is the owner of a bed and breakfast premises in Bath. He employs approximately 20 staff. The claimant commenced her employment with the respondent on the 1st February 2014.

20.“In addition, the business had suffered due to **the effect of Brexit** on the value of the pound as against the dollar and a consequent rise in its loan interest rates.”

“This is to confirm that the statutory two weeks’ notice has been given in regard to the redundancy of Katarine Kovakova at Henrietta House. Her position as co-manager and administrator will become redundant on 31 October 2016 and consolidated amongst other employees. Peter Sherwin will resume his role as manager.

The claim for automatic unfair dismissal under s103A Employment Rights Act 1996 (ERA) following the making of a public interest disclosure fails and is dismissed. **The claim for unfair dismissal under s98 ERA is successful.**”

21) Mrs L Gaidam v Voyage 1 Ltd: 2303412/2017

Decided: 4 December 2019

Public Interest Disclosure, Race Discrimination, Religion or Belief Discrimination, Unfair Dismissal
6 days hearing, London South Croydon
Unrepresented (Husband)

- 1.The Claimant’s claim of **unfair dismissal is well founded**
- 2.The Claimant’s claim of **race discrimination is not well founded and is dismissed.**
- 3.The Claimant’s claim for whistleblowing (detriment) is not well founded and is dismissed.
- 4.The Claimant’s claim for whistle blowing (dismissal) is not well founded and is dismissed.
- 5.The Claimant’s application to amend is refused.
- 6.The Claimant’s claim for breach of contract is not well founded and is dismissed.

Senior Support Worker

Claimant who is Moldovan
Incident 9 May 17 led to dismissal

“62. In cross examination the Claimant stated that **after the Brexit vote they started to be rude to her and they told all foreigners to go home.**

64. Ms Trumble in evidence confirmed that **Ms Mayes was rude to the Claimant** and there was ill feeling between the two of them. She confirmed in cross examination that **she had witnessed Ms Mayes talking differently to those who were non British and she referred to an employee called Bhata where she spoke to her in a loud and slow manner “like a stereotypical skit of an English person abroad”**. Ms Trumble did not notice a change in Ms Mayes treatment of the Claimant after the **Brexit referendum** outcome. Ms Trumble was unable to comment as to whether Ms Mayes was a racist and could not comment as to whether this was her intention.

65. The Tribunal find as a fact that there was ill feeling between the Claimant and Ms Mayes however Ms Trumble, who the Tribunal found to be an open and honest witness, **did not corroborate the Claimant’s evidence that Ms Mayes’ attitude changed after the Brexit vote.**

72. In the grievance the Claimant made a number of complaints against Ms Mayes personally, saying that **she spoke to her in an intimidating manner**, she failed to follow instructions given to her and that Ms Mayes had said **on “many occasions to the staff team she will make me go as I am a foreigner and vegetarian”**. The Claimant also made an accusation against Ms Mayes in respect of her treatment of a service user back in January 2017. The Claimant further complained that Ms Mayes was buying service users presents which made other staff feel undermined. At the end of the email she stated **“..everyone is afraid and personally I feel bullied. To right(sic), this complaint took even me a lot of courage as for the last year I felt bullied, unsupported, removed from senior jobs and treated worthless despite I help other homes in past”**.

22) Ms C Angeloz-Nicoud v TFW (London) Ltd: 2205965/2017

Decided: 6 December 2017

London Central

**Race discrimination/FRENCH
ALL DISMISSED/Unrepresented**

“2. The evidence to the Tribunal heard was from Ms Angeloz-Nicoud for herself and **for the Respondent** we heard from Ms Rogers, an HR Manager, Mr Aimar also a HR Manager and Mr Di Filippo, Head of Client Relationship Team and one of the founders of the Respondent’s business.

3. The issues were identified at a Preliminary Hearing for Case Management purposes held on 27 July 2017 before Judge Palca. At that hearing the Claimant was represented by Mr Lewis of Counsel. She is not represented at this hearing.

Did that requirement or proposal (i.e. to move the Claimant to the French Team) **deprive the Claimant of promotional opportunities. It is worth noting that in submissions the Claimant argued that it was also a demotion.**

Who was, or were, the proper comparator(s)? We note the Claimant says it should be both Sara Morelli and Marta Galizioli, both Italians, working in similar roles to the Claimant.

Has the Claimant provided primary facts from which the Tribunal could conclude her treatment was because of her French nationality.

If yes what is the Respondent's explanation and has it proved or can it prove a non discriminatory reason for any proven detriment.

5. The Claimant is a French National; she was employed by the Respondent with effect from the 24th October 2012.

a **Corporate Administrator** between April 2011 and the date when she applied to the Respondent. Before that she had been a **Business Development Assistant. Her qualifications including a Masters Degree in International Affairs and Strategic Information, with a specialism in International Management.**

11. When the Claimant was recruited, the contract given to her referred to her job title as Client Relationship Coordinator.

7. The Respondent's handbook includes an **equal opportunities policy**, but we note that the Respondent had **no training for its staff** on equal opportunities and there was very little indication of any systems to ensure equal opportunities were applied in relation to either recruitment or in any process for promotion. **There was also no training on the prevention of any bullying or harassment.**

50. There was one factual matter which was significant which we consider necessary to look into, and that was the dispute about the level of the **Claimant's role prior to her going on maternity leave.**

87. In the circumstances, we are satisfied that the Respondent has shown a non-discriminatory reason for the Claimant's treatment. Accordingly, the Claimant's claims are dismissed."

23) Mr A Puri v Interlinks Ltd: 2200418/2017
Decided: 10 November 2017
Race Discrimination, Working Time Regulations
LONDON CENTRAL
ALL DISMISSED

"112.(...)concerned the impact of the Brexit vote in June 2016 upon his performance.
113. what might be called **the Brexit effect had led to diminished client activity, and hence adversely affected his performance.**"

24) Ms C Dymond v **Barclays Bank**: 2403165/2017 and 1301581/2017
Decided: 4 March 2019
Public Interest Disclosure, Race Discrimination (Italian), Sex Discrimination, Unfair Dismissal, Unlawful Deduction from Wages
ALL DISMISSED
UNREPRESENTED
7 DAY HEARING/ SEP/NOV 2018 HEARING
MANCHESTER
ET1 presented on the 23 June 2017

“The case was decided on the evidential test ‘the balance of probabilities.’”

“We preferred the evidence of the respondent witnesses generally as we found it to be measured, logical and thoughtful.”

“The Facts

10. The claimant commenced work for the respondent in November 2014. Her role was as a Global Risk and Compliance Analyst and assistant Vice President. She resigned on 17 May 2017 and her last day was **14 June 2017**.

11. The claimant is British. **She is married to an Italian and her children are British of Italian heritage. Her parents in law lived in Italy.”**

“30. Around the 6 February 2017 the claimant was in discussion with Mr Coucill when she alleges that **during a discussion about Brexit he suggested that she should not take steps to make her children Italian citizens, in some way** (and she did not remember the words used when she gave evidence), **expressing distaste or concern at the idea.”**

“34. On 2 March 2017 the claimant was to attend a telephone meeting of the senior leadership team to present a paper. She dialled in at the appropriate time and was unsuccessful. She was successfully connected within 4 minutes. However, later, Mr Coucill was told that the meeting had been looking for the claimant and she was late dialling in. Ms Jessop said the same, and added that **the presentation had been disappointing**. “ (being made after lodging a grievance)

“he withheld that from her at the time, to make her look bad.”

“Accusing her of irrelevant behaviour.”

104. We conclude by **dismissing all claims as ill founded.”**

25) Mrs J Belin-Roux v B&Q plc: 3330899/2018

Decided: 31 July 2019

NORWITCH

Disability Discrimination, Race Discrimination (French), Sex Discrimination, Sexual Orientation Discrimination/Transsexualism, Victimisation Discrimination

Unrepresented

all fail

“15. The claimant corrected Mrs Reinbach saying she did not feel welcome in England and had not been accepted due to her sexuality because she was from France.

16. Mrs Reinbach stated she had voted for ‘Brexit’ and was not a racist in doing so.

18. the claimant should be suspended pending an investigation into the incident because the claimant had sworn directly at a colleague.

54. The claimant asserts that none of her colleagues of a different race were told off for talking about their country whereas the claimant asserts that she was because she was French.

55. The claimant asserts it became usual to criticise and mock the claimant for being French and a lesbian.

61. The claimant asserts she was completely ostracised from her work colleagues and starved of work.”

26) Agnieszka Florczak v Powys County Council and Governing Body of
Welshpool High School: 1600447/2017
Decided: 23 August 2019
Race Discrimination (Polish), Unfair Dismissal
On: 4, 5 & 6 December 2018 and 25, 26, 27 & 28 June 2019
Claimant unrepresented (a cleaner)
All fail

“1. The claims of direct discrimination, harassment, and victimisation are dismissed. 2. The claim of unfair constructive dismissal is dismissed.

“The Claimant says that things started to deteriorate and she blames the Brexit Campaign.”

“Everything changed after the Brexit campaign then unfriendly looks and different treatment.”

“18. Whatever did occur was not related in any way to the fact that the Claimant was being treated differently because she was Polish.

19. Upon her return from Poland (from Easter break, Apr 2016), the Claimant says in general allegations, that people would gossip about Polish people and watch her as though she was a thief and she felt isolated, shouted at and treated like dirt in front of others. She refers to the fact that sometimes she felt very uncomfortable about being made a joke of about her accent.

The Claimant says that Mrs Shirley Jones gave her reprimands in front of others and regularly updated others about issues regarding her. We reject this evidence of the Claimant.

54. The Claimant appears to have been convinced that every action or inaction on the part of others were designed to ensure that she was dismissed. There is no evidence in relation to this belief and we reject the evidence of the Claimant regarding any such allegations.

59. The Claimant’s allegation seems to be that Mrs Shirley Jones, when aware of her alleged behaviour, continued to pressurise the Claimant and pick on her, and this was because she was Polish. Again, these matters are unparticularised and we reject the generalisations made by the Claimant. We accept the evidence of Mrs Shirley Jones that she did not pick on the Claimant at all.

76. The Claimant says that Miss Christoforu did not observe correct procedures and completely ignored her complaints, and the way that she had been treated. The Claimant says that other employees would be treated in a better manner than the Claimant. (around Nov 2016)

112. By letter dated 27 March 2017 addressed to Mr Toal, the Claimant said that she resigned due to a lack of mutual trust and confidence, and unsatisfactory working conditions (bad treatment). The Claimant said that she was serving a one month’s notice. The Claimant mentioned ‘the ongoing stress, inadequate treatment of my person, problems with reaching an agreement with management and other staff due to my race, refusal of my flexible working application, all these issues made me take a step towards termination of employment’. The Claimant mentions the

situation as being on-going for nearly twelve months and that she raised concerns on many occasions but ‘there is no hope of improvement’ from Mr Toal’s side.

154. The unanimous decision of the Tribunal is that the complaints of discrimination, harassment, and victimisation are dismissed. The claim for unfair dismissal is also dismissed.”

27) Mr W Borak v Whale Tankers Ltd: 1301219/2017

Decided: 21 March 2019

Age Discrimination, Race Discrimination (Polish German), Unfair Dismissal

BIRMINGHAM

Unrepresented

“17. On the 13 August 2012, the Claimant commenced employment with the Respondent.

1. The claimant’s claims of unfair dismissal, direct race discrimination, harassment related to race and of victimisation are **not well founded and are dismissed**;

2. The claimant’s claims of age discrimination and of indirect race discrimination are dismissed upon withdrawal.”

“89. The first allegation relating to 2016 (incident 21) is that on the 28 June, the Claimant had a conversation with Mr Warmington about the Brexit result and that he thought that Mr Warmington’s attitude and behaviour towards him was not encouraging and was off-putting.

To be more specific about this allegation, the Claimant said that **“Mr Warmington had burst at him” in other words had an outburst after Brexit.**

92. In relation to this conversation, Mr Warmington was frank in saying he was unhappy about the Brexit result because he didn’t think it would be good for the Respondent’s business, and that he thought it would increase red-tape and so forth, but he denied that he had **“burst out” at the Claimant or anyone else in relation to his feelings on Brexit.”**

28) Ms J Davies v Tui UK: 1600187/2019

Decided: 2 September 2019

Race Discrimination (Polish nationality), Religion or Belief Discrimination, Unlawful

Deduction from Wages Swansea

Unrepresented

“1. The claimant’s claim of race discrimination pursuant to section 13 Equality Act 2010 is well founded. 2. The respondent is ordered to pay to the claimant £1,000.00 in compensation.”

“2.1 That the claimant was subjected to demeaning comments by her colleagues to the effect that migrants were taking work and school places from Welsh people and congesting NHS services.

4. The claimant describes herself as Polish. She commenced employment with the respondent on 12 November 2018 and began a period of training. The claimant was being trained to be a call

centre operative along with several others over a period of five weeks. At the end of this period ,on 12 December 2018,she was dismissed.

The claimant told the DWP that she was having problems, that Ms Beynon was hostile toward her, that other employees were questioning her and that she attributed this to “some sort of information circulating”.

6.The claimant and other trainees were at lunch on 30 November 2018.This was in an area called the kitchen, where apparently others beside the training group took lunch. It is clear that there was a heated discussion involving members of the training group including the claimant and this involved a discussion on Brexit.

6.1.The claimant’s account was that an individual (who was not called to give evidence and the tribunal shall refer to as F) **made remarks to the effect that foreigners were coming to live and work in Wales, which was a small country, and they were taking up services such as the NHS, with the implication that this was to the disadvantage of the existing population.** The claimant told us that she had responded by talking about Welsh people who lived in council houses, but said that she had been misunderstood because she was referring to the lack of educational opportunities for such people.”

29) Ms Angelika Niemanski v Nethouseprices Ltd: 1600068/2019
Decided: 14 November 2019
Maternity and Pregnancy Rights, Sex Discrimination, Written Statements
Cardiff
Claimant unrepresented

“The Claimant’s claims of unfair dismissal; detriment relating to pregnancy, childbirth or maternity; discrimination by reason of pregnancy and maternity; and victimisation; **fail and are dismissed.**”

“62.Immediately following the meeting with the Claimant, Mr and Mrs Lamond discussed the position of the Respondent generally. It appeared that the estate agency business had taken a significant downturn, primarily driven by **Brexit concerns**, over the previous year or so,and that the Respondent had suffered as a consequence.Indeed, the company’s accounts up to April 2018 showed that they had made a loss in that financial year and further losses were forecast. Some employees who had left had not been replaced but Mr and Mrs Lamond considered that they still needed to make further reductions and that would involve redundancies within their sales force.”

30) Ms H Kalaya v Wimbledon Broadway Specsavers Ltd and others: 2300658/2017 and others
Decided: 31 May 2019
Age Discrimination, Disability Discrimination, Race Discrimination, Religion or Belief Discrimination, Sex Discrimination, Trade Union Membership, Trade Union Rights,
Unfair Dismissal
Cases No: No 2300658/2017, 2301775/2017 & 2300907/2018

Unfair dismissal against the First Respondent is well founded. All remaining dismissed

“49. The Claimant was born in Burma(Myanmar). She came to the United Kingdom to study but whilst here applied for and was granted refugee status. The Claimant was brought up as a Buddhist but whilst living in the United Kingdom she has become a practicing Catholic.”

“103. She fully accepted that on 23 June 2016 customers and staff alike **were discussing the referendum and the possible consequences**. She says that she was talking about the referendum with a colleague Zuzana Urzi who was of **Eastern European origin** when they were joined by the Claimant. She said that she knew that the referendum result would have no bearing on the Claimant’s immigration status. **She said that she in fact voted to remain in the EU and did not share the anti-immigration sentiment of some of those who supported leaving.**”

“101. The final incident on this day of which the Claimant complains refers to Daniella Mann. What the Claimant says is that Daniella Mann said to her **‘I am going to vote for Brexit today, after my work. If I go and vote to leave EU (European Union) today, will I be able to get rid of you from the shop-floor tomorrow morning? Do you have to leave your job tomorrow morning’**. The Claimant says that she told Daniella Mann that Brexit would have no effect on her. She says that Daniella Mann then said pointing at her: **‘If so there is no point for me to go and vote for Brexit. I just wanted to get rid of YOU from the shop. What a shame’.**”

31) Miss De Villiers v Astellon Investment Services Ltd: 2207208/2017
Decided: 7 February 2018
Breach of Contract, Unfair Dismissal, Unlawful Deduction from Wages
London Central
Represented, unfair dismissal succeeds

“27.I accept Mr. Ondruch’s evidence that “2016 was a very bad year for the business” [WS 32]. The “markets tanked in January 2016” and then the situation worsened in June 2016 following the Brexit referendum and there was “a run on the fund” and the Respondent’s income fell by about 90%. This is not in dispute and is clearly reflected in the accounts”

“28.In light of this, I accept Mr. Ondruch’s evidence that:28.1**There “was a general atmosphere of concern and panic amongst the staff”**

32) Ms H Brimah v HBOS plc: 2208226/2016
Decided: 10 July 2017
Represented
London Central, 10 days hearing,

“the claimant was a black person

- 1.The claim of unfair dismissal fails and is dismissed.
- 2.The claim of direct discrimination fails and is dismissed.

3. The claim of breach of contract is dismissed on withdrawal.

5.40 There can be no doubt that the claimant was unhappy at the time and had a number of discussions. However, those discussions fell short of alleging race discrimination.

5.41 At paragraph 30 of her statement the claimant says the following: 30. ... I was constantly being asked by my peers why I was not permitted to apply for the role whilst it was clearly marked out for Jo Moberly who was less qualified and **whether I thought it had anything to do with my race**. I had to deal with people asking me **whether they were just trying to get rid of me along with the ethnic minority colleagues who had been made redundant**. It was a very unsettling environment. The racism surrounding the process was so noticeable, people talked of little else. Common language among staff included likening it to the Oscars, when no non-white actors were nominated and **“ethnic cleansing.”** People even joked about buying a blonde wig to fully fit the stereotype. Unfortunately, Lloyds appeared to be mirroring the populist feeling highlighted by Brexit and the US elections. I had to sensitively manage ethnic minority colleagues who fought that my mistreatment was a clear sign that **they did not have a future at Lloyds.**”

33) Mrs Esperanza Parker v Stockport Metropolitan Borough Council and Ian Irwin:
2400125/2017
Decided: 23 January 2019
MANCHESTER
Claimant represented
Disability Discrimination, Race Discrimination, Unfair Dismissal – all fail

“198. The meeting with Mr Irwin took place on 14 June. The claimant felt the Head Teacher was unsupportive and sided with Debbie Broadhurst. After the meeting the claimant said she bumped into Mr Broadhurst in the corridor and he started shouting at her and saying racist comments such as **“fucking foreigners”** and **“an English person should be doing your role”** and **“Brexit will finish you all”**. He also told the claimant to **“fuck off”** and said, **“you lot should go back to your own countries”**. The claimant said she was shocked and told him she would report him to the Head Teacher. The claimant started walking towards Mr Irwin’s office and **Mr Broadhurst continued to shout at her, she said, in front of Julie Richards and Ian Irwin who stood there saying nothing**. However, their evidence was that they observed nothing of that nature. We cannot accept the claimant’s evidence here as she did not confirm any of these details in an email or any other communication at the time. We find it inconceivable if this had been said that the claimant would not have reported it.”

34) Dr M Migliorato v University of Manchester: 2402737/2015
Decided: 29 March 2017
Manchester
Unrepresented, 125pgs judgment , 23 day hearing(+7 in Chambers)
Claim form presented on 25 February 2015
Public Interest Disclosure, Race Discrimination(Italian)

“We considered documents in an agreed **bundle** which we marked CR1, which eventually ran to **page 2,974**. We heard oral evidence from **19 witnesses**.”

22. The claimant has been employed by the respondent since 1 March 2007 **in the Faculty of Engineering and Physical Sciences** (“EPS”). On 1 March 2012 he was promoted to the role of **Lecturer**. He remains in the respondent’s employment and now holds the role of **Senior Lecturer**.

23. The EPS Faculty has approximately 2,000 employees. The respondent monitors their ethnicity. Between 2011 and 2015, the ethnic profile of the EPS staff as a whole has been between 16-17% Black and Minority Ethnic (“BME”), 64-67% White British and 16-20% White Other. BME and White Other employees are over-represented within EPS compared to employees of the University as a whole. There is no breakdown between white employees of different countries of origin.”

All fail

However the same Employment Tribunal (Manchester) found ‘institutional racist’ culture at MMU in 2005!

“Manchester Metropolitan University, Dame Sandra Burslem & Senior Management - Tribunal's Findings of Institutionalised discrimination”

[<https://sites.google.com/site/cemkumar/manchestermetropolitanuniversityseniorma>]

“On Equality & Diversity - Why oh why has this **Institutional Racist organisation** not dealt with the problem, Yes there is a problem, and staff do not want any more rhetoric on this matter or audits which are not acted upon. As you will be aware UNIAC is currently carrying out a review of equal opportunities but fall short on their own expertise of equality and diversity issues. Again we the staff suffer from the inadequacies of the leadership of this University having understanding of how to tackle the problem or as seen by many not tackling the problem, by taking no action against managers who blatantly abuse their positions.

UNISON will endeavour to change this undesirable culture to ensure all staff work in an environment free from any forms of DISCRIMINATION.” **Unison, 2007**

Case of [Dr. C. D’Silva vs Manchester Metropolitan University](#) (Case no: 2409906/03-2404779/04), and

[L. Williams vs MMU](#) (settled out of Court, Left Univ)

[J.Reika vs MMU](#) (settled out of Court)

[L.Gayle vs MMU](#) (settled out of court 2005, Left Univ).

[A. Rahman vs MMU](#) (settled out of court 2006, Left Univ)

[C.Williams vs MMU](#) (settled out of court 2007, Left Univ)

[J.Reika vs MMU ET Tribunal claim\(2008\)](#) [as per article above]

35) Mrs A Zysk-Lobo v Edge Hotel School Ltd: 3200480/2018

Decision date: 18 February 2019

Polish Claimant Represented

Breach of Contract, Maternity and Pregnancy Rights, Race Discrimination, Sex Discrimination, Unfair Dismissal (dismissed heavily pregnant on leave!), Unlawful Deduction from Wages

“3 **The claimant is of Polish origin. The Lobo part of her surname is from her husband, who is Indian.** She brings claims of: -

3.1 unfair dismissal;

3.2 race discrimination;

3.3 pregnancy discrimination;

3.4 sex (gender) discrimination;
3.5 wrongful dismissal (notice pay).”

“7 At the school, the claimant’s line manager was Adrian Martin who was the Academic Vice-Principal. Mr Martin joined in April 2015. Above him, was **Andrew Boer the Principal.**”

She had gone off sick on 21 July for 7 days with a diagnosis of: “Stress at work (pregnant employee)”.

55. “As you are well aware the stress and anxiety I suffer is caused by the EHS proceedings and bullying character of investigation. This impacts enormously on my health and my pregnancy”.

56 We have found it hard to accept. We have seen some patient and forbearing emails from management which the claimant described as “pressure”. That was her subjective view of them.

80.to the extent the claimant was missed off group emails on occasions, this was completely accidental”

JUSTIFYING DISCRIMINATION! ABOVE

“82 On the subject of the disciplinary investigation, she said:

“AZL claims that the way the disciplinary investigation was conducted was unsupportive and unreasonable and that this is connected to her pregnancy and is indicative of the school’s **desire to force her out of employment.**”

“84 The claimant contended that allegation she posted the information was “never proved”. However, in these unfair dismissal tribunal proceedings, it does not have to be “proved”. The employer needs to prove a reasonable belief that, on the balance of probability, the claimant did commit a repudiatory breach of her contract of employment. So it is a value judgment on “reasonable”.

“109Mr Boer is of Austrian/Czech heritage and his father was German. **The remark he made about “jobs for the British” following the referendum result in 2016** is as he explained. **He saw it as his duty ,as an educator, to promote intelligent discussion around what is, and remains, a highly polarised debate.**”

ALL DISMISSED, NAMED AND SHAMED POLISH MIGRANT, DESPITE BAD EMPLOYER NO HR PRESENT, FILES LEFT IN PUBLIC SPACE – BUT BRANDED CONFIDENTIAL! CREDIBILITY OF A HUSBAND USED TO UNDERMINE CLAIMANT’S CREDIBILITY.

36) Ms C Muntean v The Chief Constable of West Midlands Police: 1302459/2016
Decision date: 4 December 2017
Public Interest Disclosure, Race Discrimination
Represented, Romanian, Police Constable

“1. There was no contravention of part 5 of the Equality Act 2010 and the claimant was not subjected to discrimination based on the protected characteristic of **race** in contravention of s.13 (direct discrimination) and s.27 (victimisation) Equality Act 2010. Those complaints are dismissed.”

2The Claimant was **not subjected to a detriment** done on the ground that she made a protected disclosure (ss.47B & 48 Employment Act 1996 (as amended)). That complaint is also dismissed.

1. This is a claim that was presented on **22 September 2016** and includes complaints of race discrimination (the claimant, describes herself as **Romanian**), victimisation and detrimental treatment done on the ground that she made a protected disclosure (a whistleblowing detriment complaint).

15. (on 3 February 2015) it was then **“I began to notice a difference in treatment towards me. I began to feel that Sgt. Proffitt was actively keeping ‘a tag’ on me”**

18Many of the incidents to which we are about to turn **formed part of a log of events (the “Log”) [116-121] that Sgt. Proffitt started to keep on 29 September 2015;** i.e. almost 6 months after the first of the incidents included in it (14 April 2015). The Log was later referred to in **an informal performance management process** (“the Informal UPP”) that was commenced against PC Muntean in the late spring of 2016. The Log was duplicated and expanded upon in a further version concerning the events concluding on 26 April 2016 [252-256].

149.(...)supervisors had challenged PC Muntean on two occasions, **once concerning her voicing her dissatisfaction over the referendum result and posting inappropriate remarks on social media that were described as “of a provocative political nature”**

151. “I believe that this was due to the fact that I had stopped most contact with supervision and avoided people around me to the point that I started to become a recluse. I became less enthusiastic to come into work every day due to this treatment of me. There was a significant change in my personality which appeared to be more than welcomed by supervision.”

154. He stated the incidents included (im)politeness, unprofessional behaviour towards her peers, interrupting supervisors when they been providing advice and direction and a general decline in PC Muntean’s attitude. He identified specifically nine points in the revised Development Plan:-

- on 16 July 2016 PC Muntean had allegedly interrupted supervision and had unnecessarily challenged direction,
- on 25 July 2016, PC Muntean had allegedly displayed an unprofessional attitude in that she openly vented her frustrations regarding her perception that she was being given inferior work that others did not want to do,
- on five occasions in July PC Muntean had allegedly been late for work,
- on 26 July 2016, PC Muntean allegedly displayed incivility towards two colleagues on the Investigation Team, (see (173))
- on 25 July 2016, PC Muntean allegedly dealt with a 15-year-old girl who had mental health issues in an inappropriate manner. (The date of the incident was 24 July and the complaint 25 July 2016), (see (172))
- on 27 July 2016, PC Muntean had allegedly been aggressive, rude and unprofessional when working with colleagues,
- on 27 July 2016, PC Muntean was allegedly argumentative towards Sgt. Saraiand,
- on 28 July 2016, an officer allegedly expressed frustration on behalf of the team with the behaviour of PC Muntean and her general attitude.

162.1 *“I recall working on a night shift however I cannot recall the date. I had been briefed that **a large group of Eastern Europeans were going to be***

sleeping rough in Queens Square to raise awareness and money for charity. PC Clark made the comment 'standard' in reference to the group being formed of Eastern Europeans which was made in open forum. I believe that the comment made by PC Clark was intended as an inappropriate joke and I did not believe that there was an intention to offend me in any way by this however I was not approached as to whether this comment upset me at all. I was surprised by supervision's actions in not challenging this whatsoever especially when made in my presence. Their failure to challenge troubled me as I have no doubt that had such a derogatory comment been made about someone from another minority ethnic group then this would not have gone unchallenged. I was troubled that for some reason Eastern Europeans (people of my ethnicity) were seen as inferior and unworthy of support and that derogatory comments could be made about them and these comments would go unchallenged." Jul/Aug 2016

Allegation 8. Did C's colleagues treat her differently, (in a cold manner)?

Particulars: avoided eye contact. Spoke to her coldly.

"The case, heard last July, was told she felt there was a "witch-hunt" against her. She had taken the force to tribunal in 2013, again alleging race discrimination. On that occasion, the parties later compromised without admission of liability. She felt she was singled out and told the tribunal: **"I began to notice a difference in treatment towards me."**

Xenophobia and anti-Eastern European sentiment, *Racism Ruins Lives - An analysis of the 2016-2017 Trade Union Congress*

Racism at Work Survey, Published: 15 April 2019, TUC

Centre on Dynamics of Ethnicity, University of Manchester

The effects of racism at work has become the invisible issue that is not discussed when considering the position of BME employees at work.

(...) around 60% of Asian and Black workers, and almost 40% of participants from a Mixed heritage background reported that they had been subjected to unfair treatment by their employer because of their race.

Ethnic minority employees also stated that they had been subjected to excessive surveillance and scrutiny by colleagues, supervisors and managers, as well as being denied promotion and development/ 'acting up' opportunities. What is more, ethnic minority employees reported being given unfair performance assessments, as well as being treated as being intellectually inferior to their White counterparts.

As we noted in Section 1, popular anti-immigrant sentiment has not only further evidenced the contingent and probationary nature of Whiteness, it has also shaped anti-Eastern European sentiment in the workplace. Moreover, the quotations below demonstrate the ways in which racism and xenophobia can be both expressed and experienced in overlapping ways.

A patient complained about being seen by an Eastern European dentist and wanted to be treated by someone White and English (White British Female)

I constantly live in fear and I have stopped asking to be treated the same as others and to stop singling me out as the only response I receive is an aggressive answer that I need to behave. So after 3 long years I have stopped asking for help and just try to plough through the day and earn my living. Business, instead of using my intelligence, interrogated me, punished me and laughed at me and as I don't want to join masses of unemployed I am learning to grow a thick skin (Female, any other White Background, Customer Advisor)

I am Polish but last year relocated to the UK...Before I moved I secured a job at [name of local authority]. From the day I came in to the office it became apparent that I was not welcome and it was all about me being Polish and being the only foreigner in the office. Within days I was referred as a 'cleaner' or 'she'. Colleagues refused to speak to me or train me. I would spend the entire working day watching walls or surfing the internet as nobody wanted to train me on the easiest of tasks. I had to beg them...I was told the entire office voted for Brexit. Some colleagues who claimed they were from UKIP said they would not speak to me (and they didn't). I was warned not to 'get on the bad side of my colleagues'. Attacks on Polish residents in the town where I live were loudly discussed in the office and laughed at despite my presence...My letters to Human Resources have been read aloud in the office to rally people against me. My managers did nothing to stop it...they said it was just my imagination and I did not know the British way of living...All meetings designed to improve the atmosphere in the office were spent trying to convince me I was the problem and not the behaviour of my colleagues. I have tried to leave the work twice. After the second time I quit. My manager gave me terrible references calling me 'unstable'. My manager knew from day one that I suffered from depression and post-traumatic stress disorder and that bullying made me relapse. It did not matter...Another colleague (British Muslim) was also subjected to remarks ('wearing rags on her head') and left the office shortly before me. Since the references I have tried to find work in the council twice. I was successful with two interviews but the offers were withdrawn due to references and 'my reputation'. I tried to receive assistance from the [name of union] but they were not helpful either (White European Female, Public Sector)

I wasn't invited a few times for weekly staff meetings and for the Christmas Party. I was told not to speak Polish at work while other colleagues speak their languages. One colleague threatened that [they] would inform the area manager if I speak Polish. She is bullying me, making fun of me in front of others, saying bad things about me to other colleagues behind my back to make them against me. Some have already stopped talking to me. I feel isolated at work (White European Female, Retail)

Comments made about other employees who were European immigrants, implying they are 'lazy' and 'stupid'. Comments are always personalised it's never 'these immigrants are lazy' but there is a correlation between the frequency of negative comments being made and the person being an immigrant. In the case of the one black girl in my workplace, there are more overtly offensive comments particularly about her smell and her being 'stupid' and 'slow'. Again skin colour isn't mentioned but she certainly receives these

sort of comments when others don't...European immigrants with poor English were frequently put on business contracts inappropriate for their needs as a customer. This was done in order to meet sales targets, with colleagues assuming that these people would not be able to understand the difference between consumer and business contracts (Male, mixed heritage background)

Colleagues making racist and derogatory comments about other service users; colleagues grudging service to users who are not White and people who are immigrants; colleagues not treating other colleagues as 'one of the team' because they're originally from Eastern Europe; service users making racist and derogatory comments about other service users (White British Female, Administrator)

Witnessed a lot of verbal abuse towards Eastern European colleagues particularly after Brexit. One colleague was called 'a Polish b***h' by a coworker (White British Female, Project Worker)

The quotations above also demonstrate the forms of exclusion, hostility, bullying and harassment which **White Eastern European** people encounter from their colleagues, supervisors, managers, human resource departments and company directors, as well as further evidencing the economic, physical and psychological impact of workplace discrimination. Moreover, one of the survey participants also illustrates that **being identified as 'the problem'** can also have long-lasting consequences and that challenging discrimination at work can lead to forms of 'reputational damage' which hinder people's ability to find alternative employment. Not only this, the personal statements cited here also evidence the way in which xenophobia shapes customer service provision, while also acting a way to meet sales targets.

[End quote]

Identity In Flux, The Polish Community in Britain, by Keith Sword, 1996 Crossing Ethnic Boundaries: Discrimination, Stigma and Self-Esteem

To the Poles who arrived in Britain in the 1940s — and to their children — discrimination was not uncommon; indeed, it was something that many of those who went into factory work were forced to accept as part of the social environment.

Inevitably, for many children growing up within the camps or within an urban Polish community early contacts with British society and culture, as we have seen, were limited.

At the time (1950s) there was not the structure of support within the state educational system for pupils from ethnic minority backgrounds that has

developed since. There were no remedial language teachers, for example, and newcomers from other cultural milieux were simply expected to ‘fit in’. As one young woman said, it was a case of sink or swim.

Other examples were cited of teachers making life difficult for Polish youngsters.⁴⁶ Several respondents who went to Catholic schools mentioned that tension was caused when they came across teachers from Irish backgrounds.

‘Gosia’ W. related an incident that had happened to her as a 15-year old when was at school. She and her friends were caught walking in town not wearing school coats. She was singled out from the group and subjected to a ‘racist tirade’ from the teacher. One of the themes of the diatribe was that she should be ‘grateful for what this country has given you...’. Tape B/23/GW.

Other more overt and lasting aspects of their Polish background were to cause hilarity for their English peers, and embarrassment for themselves — their ‘unpronounceable’ Polish names.

Another informant recalled being teased by other children over her surname. ‘Urbariczek’ became ‘urban chick’.

Continuing problems with names in adult life led to many changing — or anglicizing — their names in an attempt to ‘pass’ within the British community. Hence Czeszniewski became Chesney...

Some informants showed awareness of the barriers their parents had to surmount in the 1940s and 1950s ‘Mietek C.’ (Luton) recalls that as a boy he went to an egg-packing station near Marsworth to translate for his mother who was seeking a job. They were told quite openly, in a way which today would contravene equal opportunity legislation, ‘**We don’t employ foreigners.**’ At a later stage (c. 1960) his father had been unable to obtain a mortgage from the building society, again the suspicion being that it was because of his Polish background.

Another respondent, a structural engineer from the Midlands (quoted earlier in this section discussing the ragging he received from English schoolmates as ‘character-forming’),(...)