



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr S Bruce

**Respondent:** Civil Nuclear Police Authority

**Heard at:** Carlisle **On:** 6, 7, 8 and 9 February, 2018

**Before:** Employment Judge Nicol **Member:** Mr M C Smith

**Representation**

Claimant: appeared in person  
Respondent: Mr J Cavanagh, QC

## REASONS

1 At the end of the hearing, the Tribunal gave its Judgment and Reasons for the Judgment. The respondent has requested that the Tribunal should set out its Reasons in writing. Accordingly, these Reasons set out the Tribunal's findings in support of its Judgment. Whilst the wording and order may differ from the announced version, this is with the benefit of more preparation time and is not the result of further deliberations by the Tribunal.

2 This is a complaint by Stuart Bruce, the claimant, against the Civil Nuclear Police Authority, otherwise referred to in these proceedings as the Civil Nuclear Constabulary, arising in the course of his employment as a Police Inspector. The claimant's employment with the respondent commenced on 30 January, 2012, and is continuing. The claimant alleges that he suffered victimisation after making a protected act as described in Section 27 of the Equality Act, 2010.

3 It was the intention that the hearing would take place before a Tribunal consisting of an Employment Judge and two Members. Unfortunately, due to the prevailing weather conditions, one Member was not able to attend the hearing venue for the intended start of the hearing and it was not known when the Member would be

able to attend. The parties were informed of this and of the options of either proceeding with only one Member or adjourning the hearing. It was made clear that the hearing would only proceed with one Member with the full consent of the parties and on the understanding that, in the event of the Tribunal not reaching a unanimous decision, the Employment Judge would have a second vote. After a short adjournment to allow both parties to consider this, both parties agreed that the hearing would proceed with only one Member.

4 The victimisation claim is all that remains of proceedings that originally, included a claim of disability discrimination. An Employment Tribunal with a different membership held that the claimant is not disabled for the purposes of the Equality Act, 2010, although he does suffer from two medical conditions, they are diabetes and a shoulder injury. Whilst this Tribunal was provided with a copy of the earlier Judgment and Reasons, it did not seek to reconsider the earlier decision and formed its own opinions on the basis of the evidence that was placed before it.

5 The Tribunal recognised that although the claimant was found not to be a disabled person for the purposes of these proceedings, he does have a condition that means that he can have urgent need for a toilet. He was informed that if he needed a comfort break at any time, he should indicate this to the Tribunal so that an adjournment could be ordered. The claimant did take advantage of this, when necessary.

6 The Tribunal heard evidence from the claimant and from Police Sergeant Gary Cannell, Police Sergeant Euan Donald and Police Sergeant Neil Eelbeck on his behalf and Chief Inspector David Joseph Harris, Chief Inspector Hazel Deans, Temporary Chief Inspector Richard Clerk, Heather Ferguson of Human Resources Department, and Inspector Michael Sloggett, on behalf of the respondent. The witnesses gave their evidence in chief by submitting written statements that were read by the Tribunal at the start of the hearing and, subject to any necessary corrections, confirmed on oath or affirmation at the start of each witness's oral evidence and, as permitted by the Tribunal, answering supplemental questions. All witnesses were cross-examined. Ms Ferguson was unfit to attend the hearing but, with the agreement of the parties, gave her oral evidence by telephone via a speaker in the hearing room that all present could hear.

7 The respondent had intended to call Inspector James Sutherland and his statement was included in the bundle. However, he was unable to attend the hearing and the respondent withdrew his statement, which the Tribunal disregarded in its deliberations.

8 The Tribunal had before it two agreed bundles of documents, marked 'Exhibit R1' and 'Exhibit R2'. Both parties made oral closing submissions, the respondent by reference to a skeleton argument.

9 From the evidence that we heard and the documents that we have seen, the Tribunal finds the following facts.

10 The respondent is a statutory armed police authority that was created in accordance with the terms of the Energy Act, 2004. Its primary activity is the protection of licensed civil nuclear sites. Its activities are limited in both scope and geographical

locations, except where it is providing an escort for the transportation of nuclear material. It does not investigate crimes. The respondent is not bound by but has chosen to adopt the principles and standards set out in the Police (Conduct) Regulations, 2012, and the Police (Complaints and Misconduct) Regulations, 2012. It has a Professional Standards Department that investigates allegations of misconduct on the basis of those Regulations.

11 The claimant served as a Police Officer with the Metropolitan Police for 31 years with what appears to be an exemplary record, retiring with the rank of sergeant. He also served in the Territorial Army and attained the rank of major and, again, appears to have had an exemplary record.

12 The claimant joined the respondent in January, 2012, as a Constable and was posted to Harwell. Here, he alleged that he was the victim of an assault by a firearms instructor. The Tribunal did not have the details of the origin of the alleged assault. However, the matter was not taken further at the time.

13 The claimant was promoted to the rank of Acting Sergeant after ten months with the respondent and was promoted to Sergeant at Sellafield in May, 2013. Mr Harris was his Chief Inspector and the claimant enjoyed a good relationship with him. The Tribunal accepted the claimant's evidence that he saw Mr Harris as a key person at Sellafield and one who was able to influence what happened there. However, the Tribunal did not accept that the claimant's perception of Mr Harris was necessarily correct.

14 On 17 August, 2014, with the support and advice of Mr Harris, the claimant was promoted to Inspector with Mr Harris as his line manager and their good relationship continued. This was after the claimant had made an earlier unsuccessful application for promotion.

15 From his evidence before the Tribunal, it was clear that the claimant was ambitious and wanted to progress further in his career. He had been a representative with the Police Federation and he took welfare issues very seriously. The Tribunal saw this side of the claimant when he ensured that someone who had given evidence against him was able to leave the Tribunal for family reasons even though this could have been left for the respondent's representative to sort out. His enthusiasm for the job and his interest in welfare may well have created the impression with his colleagues that he was getting involved in matters that did not concern him and may well have created a level of friction with his peers. There is evidence that the claimant also created friction with his superiors. He had complained against Inspector Potter, alleging oppressive behaviour and discrimination, and then Inspector Clyne, alleging victimisation. In the former case, the finding was that both participants should undertake a course to demonstrate an understanding of the respondent's dignity at work and equality policies. In the latter case, which took place after the preparation of the Report referred to below, Mr Harris took the claimant's side against Inspector Clyne. There is documentary evidence that the claimant by-passed the chain of command in a complaint by an Inspector based at the respondent's headquarters after the claimant attempted to contact the Assistant Chief Constable about another Inspector.

16 Other witnesses gave the impression that Mr Harris could appear intimidating but there was nothing to suggest that he treated any of his subordinates differently. In respect of a grievance lodged by the claimant, which is referred to below, witnesses who supplied information criticising Mr Harris stated that they did not suffer any consequences as a result.

17 The respondent was involved in litigation in the Employment Tribunal with two of its then employees over allegations of indirect discrimination. Within the respondent, this was a significant case. Briefly, the case related to the use of a particular weapon during assessments and the difficulty most women had in handling it as compared to most men. The Employment Tribunal found in favour of the claimants. Mr Harris did not provide any evidence to that Employment Tribunal and is only briefly mentioned in the Judgment, without any adverse comment.

18 One of those employees worked at Sellafield and had returned to work there after the hearing on liability and before the hearing on remedy. After a few months, she commenced a period of long-term absence that was attributed to work place stress.

19 The respondent awards different sick pay depending on whether the cause of the absence arises from an injury in the work place or not. In this case, there was a need to investigate the true cause of the absence. Ms Deans was tasked with reporting on this to the Half Pay Panel, which would decide on the pay implications. The claimant was given the task of preparing a report ('the Report') for Ms Deans to present to the Panel.

20 The Tribunal finds that the claimant probably considered that this was a good opportunity for him to be involved in a high profile matter that could have advanced his career. However, from the report that he prepared, it is not clear whether he understood the precise nature of the task that he had been given. In his statement, the claimant states 'I was asked to carry out a...investigation into the victimisation of constables...my findings...highlighted a number of areas for improvement...' His report deals with matters that were outside his remit and reflects well on the respondent.

21 When Ms Deans informed the Panel that the claimant had prepared the Report, questions were raised about the claimant's independence because he was known to have been a Police Federation representative. There did not appear to be any suggestion that the claimant had allowed this to influence him improperly. Ms Deans informed the claimant that he might be taken off the task but that she would seek further advice on the matter.

22 The claimant construed this as indicating that he was being taken off the matter and feared that the apparent questioning of his independence could have an adverse effect on his prospects. The claimant was aware that Mr Harris was also a member of the Panel but he had apparently not used his influence, as perceived by the claimant, to assist the claimant.

23 In the event, Ms Deans did seek further advice and the claimant was allowed to continue to be involved in matters related to the Report. Ms Deans reinforced the guidelines to which the claimant was to work. The Tribunal accepts that, in dealing with this matter, Ms Deans acted independently and was not influenced by Mr Harris in any way and there was not any actual evidence to contradict this.

24 When the Tribunal asked Mr Harris directly whether the Report had influenced his opinion of the claimant, Mr Harris said 'It hasn't influenced me one bit'. There was not any evidence before the Tribunal to suggest that Mr Harris had ever acted in a way that might have suggested that he was upset by the Report, other than the claimant's allegations, or that he disagreed with the outcome of the Employment Tribunal proceedings. The Tribunal accepted his evidence that he was disappointed that the case had not been resolved without the need for proceedings because a solution could have been made available by management at an earlier stage.

25 The claimant now alleges that in June, 2015, he was told by Mr Harris that some of his colleagues hated him. This contrasts with the claimant's diary where he states that he was told that some of his colleagues did not want to work with him. The Tribunal was satisfied that some sort of conversation did take place but this may have been more in the form of guidance because of the claimant's perceived meddling in matters that did not concern him. The claimant was sufficiently concerned that he discussed it with various of his colleagues but none of them made any complaint about him. The claimant approached the vetting department about his conversation with Mr Harris and was advised to take out a grievance but the claimant declined to do so because, he says, he did not want to aggravate the situation. It does not appear that at that time he alleged that he was the subject of victimisation.

26 The claimant had a meeting with Mr Harris at which the claimant's diabetes was discussed whilst completing a disability management form. The claimant complains that Mr Harris did not want to know how the condition was managed but only wanted to know if he required any reasonable adjustments. The claimant suggests that because he was a relief inspector his condition was harder to manage because of the uncertainty of when he would be working. If he had been allocated a team, he would have expected more regular working and could manage his condition more easily. The claimant alleged that others received more favourable treatment in respect of medical problems but he did not produce any evidence to support this. The Disability Management Record in the bundle suggests that the claimant did not want any adjustment when his diabetes was discussed and the need for an allocation to a team is not mentioned. However, there is reference to the possible need for refreshment breaks and additional breaks might to be discussed, if necessary to assist the claimant.

27 The claimant's Performance and Career Development discussion ('PCD') with Mr Harris, in June 2015, resulted in a score of 3, but this was primarily because the claimant had admitted to plagiarism. The second line manager, Lynne Blackburn, agreed with Mr Harris's assessment and the claimant's own comments were, 'I'm disappointed with this report and have let myself and others down. I will self reflect on this report and will make amends at every opportunity'. The Tribunal saw this as a demonstration of the claimant seeking to show himself in the best possible light by using words that he thought would assist him. The Tribunal noted Mr Harris's final comment where he thanked the claimant for his 'hard work and support'.

28 The claimant stated that the award of the score of 3 would slow his possible career progression by two years. This was clearly a major concern for the claimant. If this is correct, he was the author of his own misfortune.

29 The claimant's next PCD with Mr Harris was the best he has had. It resulted in a score of 2, with two 1s for individual competencies and some very complimentary

remarks. The claimant said, 'I am pleased with my report and intend to continue to improve as always. Thank you.'

30 Mr Harris recommended the claimant for an award in December 2015, after excellent work by the claimant on two successive days in respect of two different matters.

31 In May 2016, Mr Harris passed on praise from Assistant Chief Constable Armitt for work done by the claimant and officers working under him. Mr Harris said, 'It also looks to me like another job where your fingerprints are all over the response, well done, strong leadership is evident'.

32 As a relief inspector, the claimant had a changing shift pattern. As set out above, the claimant stated that he wanted his own team because he felt that it would offer more certainty over shift patterns and would help him manage his diabetes.

33 Mr Harris accepted that there was a problem with the two relief inspectors, being placed on ad hoc shift patterns. However, responsibility for this lay with the Duty Planning Department, not Mr Harris. The claimant was not forced to accept short notice duties and Mr Harris was supportive of the claimant.

34 Mr Harris had regular 1-to-1s with the claimant and suggested that the claimant prepare a Development Plan for himself. However, the claimant did not prepare one, later saying that it was his line manager's responsibility. The Tribunal took this as further evidence of the reliance the claimant placed on Mr Harris and his own failure to be pro-active.

35 The claimant also complains about the lack of training opportunities. Mr Harris was not responsible for handing out training opportunities. Decisions as regards who should attend were taken by the Sellafield OPU Senior Leadership Team.

36 The claimant complains that in 1-to-1s he was picked up by Mr Harris for mispronunciation of words and use of grammar. The Tribunal accepted that Mr Harris was trying to be helpful but considers that his manner in doing this may not have assisted their relationship. There was nothing to suggest that Mr Harris treated the claimant differently to the way in which he had treated the claimant previously or the way in which he treated others.

37 The claimant makes various complaints about comments made by Mr Harris during 1-to-1s, including in respect of his sexuality, personal relationships and financial status. Having seen the two of them, the Tribunal finds that Mr Harris had a different sense of humour to the claimant and what others might have taken as banter, the claimant treated as insulting. In the Tribunal, Mr Harris apologised for one of his remarks. Again, there was nothing to suggest that Mr Harris treated the claimant differently to the way in which he had treated the claimant previously or the way in which he treated others.

38 As part of his move to Sellafield, the claimant received assistance with his expenses under the respondent's Public Interest Transfer scheme. Under the scheme a person transferred may qualify for various payments to mitigate the financial expense of moving home. The scheme operates for a fixed period and is then reviewed every

three months for up to three years. At one point, it was suggested that the claimant would lose his entitlement under the scheme because of the perceived lack of effort in finding alternative accommodation. The threat was eventually lifted. Although Mr Harris may have been aware of the scheme and the benefits that the claimant was receiving/claiming, there was not any evidence to suggest that he was able to or attempted to influence the way the scheme was administered.

39 Early in September, 2016, the claimant had a 1-to-1 with Mr Harris, when Mr Harris looked through his diary. The claimant did not know why. In fact, Mr Harris was aware that certain allegations about timekeeping might be made against the claimant and he wanted to check whether the diary showed that there might be a problem. Mr Harris found that the diary did not show that anything was wrong.

40 Around this time, a meeting of the Senior Leadership Team ('SLT') discussed the placement of Inspectors. The claimant remained on the relief list. One factor taken into account was the possibility of disciplinary action being taken against him and of possible suspension. This was a legitimate concern of the SLT. Whilst Mr Harris is a member of the SLT, it is chaired by a more senior officer and Mr Harris is not able to control it.

41 At the request of those conducting an investigation, the claimant was served with a Regulation 15 notice, which is the start of formal disciplinary proceedings, on 7 September, 2016, by Mr Harris, which was in accordance with the procedure. Mr Harris did this in private 'because he did not know how the claimant would react'. The Tribunal finds that there was nothing wrong in this. It was a personal matter that it was appropriate to deal with privately. Different people will react differently in such a situation. Some may be able to accept it in a professional manner but others may become distressed. In any event, it would not seem to be something that a recipient would necessarily want to be a matter of public knowledge so early in the proceedings.

42 A second Regulation 15 notice was served on the claimant on 7 October, 2016, and this time the claimant was informed by Mr Harris that he was to be suspended with immediate effect. Mr Harris allowed the claimant, accompanied by Mr Eelbeck, time to clear his desk and put his personal effects in order. Whilst doing this, the claimant was seen by the Assistant Chief Constable who complained to Mr Harris that the claimant was taking too long to leave the premises. Mr Harris went to check and found the claimant in conversation with various sergeants. At this, Mr Harris lost his temper and told the claimant to get out immediately. Subsequently, Mr Harris apologised to Mr Eelbeck for the manner in which he had acted.

43 The decision to suspend the claimant was not made or procured by Mr Harris. The Tribunal accepted that the conduct for which Mr Harris apologised to Mr Eelbeck was caused by his irritation at being criticised by the Assistant Chief Constable.

44 Mr Harris admits that he was irritated with the claimant. This is because he was still on the site an hour and a half after being asked to leave, and the Assistant Chief Constable had complained to Mr Harris about it. The claimant was perceived to be holding court with a group of sergeants. Mr Eelbeck, in his oral evidence, said, 'I can understand Mr Harris's concerns about the duration of the time that the claimant was remaining on site, and I understood the concern that he would have.'

45 The allegations in both of the Regulation 15 notices related to timekeeping. The Tribunal understood that it is extremely important that Inspectors complete their shifts, unless absence is officially approved. In the event of an incident, the Inspectors would be expected to take charge and to organise how it was dealt with. A break in the command chain could have serious consequences.

46 In the first Regulation 15 notice three occasions are recorded when it was noted by other Inspectors that the claimant appeared to have vacated the site without approval and without completing his shift. These incidents were reported to Mr Clark who then instituted disciplinary action. There was not any evidence to suggest that Mr Harris had had any involvement in this process or had prompted others to give information against the claimant.

47 The alleged incidents referred to in the second Regulation 15 notice were discovered through access to records kept by Cumbria Constabulary. There was a dispute over the way in which this information was obtained which has been the subject of various dispute procedures. Other than the possible involvement of Mr Harris, this Tribunal was not required to comment on the manner in which this information was obtained or whether it was appropriate for the respondent to receive it. However, there was nothing before this Tribunal that linked Mr Harris to anything done in connection with obtaining or using this information. The claimant referred to the provision to the investigators of his vehicle registration number but this was information that was readily available and was not supplied to the investigators by Mr Harris.

48 The claimant now says that there are probably reasonable explanations that explain why he appeared not to have been available at the end of the cited shifts. In addition, that records relating to his vehicle do not show who was driving it. However, when interviewed under caution the claimant's responses are frequently evasive and do not include the explanations that he now gives. For example, at page 464 of bundle R1

Q ...you were working at Sellafield from the time you booked on to the time that you booked off you were at Sellafield or within five K of Sellafield?

A I'm not going to comment on that.

And

Q Is that because you weren't there?

A I'm not prepared to answer that question.

It was not unreasonable for the investigators to be suspicious of his responses. However, this is based on the investigation and there is not any evidence to show that Mr Harris was involved in the disciplinary process.

49 After very protracted investigation and consideration of the allegations, they have now been withdrawn and the claimant will return to work after this Tribunal hearing has concluded. The Tribunal did not need to consider whether the allegations were well founded or not, it only needed to consider whether Mr Harris did anything contrary to the claimant's interests because of or arising from the Report or his reaction



to it. As has already been indicated, the evidence did not support the claimant's allegations and the length of time over which the allegations were considered was outside the control and/or influence of Mr Harris.

50 The claimant did not lodge a grievance with the respondent until December 2016. He then wrote three letters to the Chief Constable, one on Christmas Eve, one on Christmas Day and one on Boxing Day. The respondent immediately responded by commissioning an independent person, Mr Paul Granger, a former senior detective in Wiltshire Police, to conduct the grievance investigation. The investigation was extremely thorough.

51 The grievance was considered by Chief Superintendent Worsell and his Note of Decision is in the bundle. Subsequently, the claimant was granted a grievance appeal, in January, 2018, and, as mentioned, the claimant is returning to work on Monday 12 February, 2018.

52 There were various individuals involved in the disciplinary proceedings who either gave information or took part in the investigation. Despite firm assertions by the claimant, the Tribunal can find no evidence that suggests that Mr Harris had any part in the process other than the service of the Regulation 15 notices. He was aware of the allegations but there is nothing to suggest that he took any action to provoke or continue the proceedings or to try to influence the outcome. Whilst it is possible that the allegations were originally made for doubtful motives, there was sufficient information for them to require investigation and for the claimant to be given the opportunity to clear his name. The claimant does not make any allegations against anyone other than Mr Harris and the Tribunal was satisfied that Mr Harris had done nothing to cause those who made allegations to bring them to the attention of management.

53 The two officers who criticised Mr Harris in general terms in the grievance, Messrs Cannell and Eelbeck, were asked by the Tribunal whether they had suffered any comeback as a result and said that they had not done so.

54 The contentions of the parties were set out in their closing submissions and the skeleton argument, which needs to be read for its full terms and effects. Briefly, the claimant contends that Mr Harris, and only Mr Harris, could the claimant to be treated in an adverse fashion because of the contents of the Report, written by the claimant. The claimant relies on various incidents that occurred after he wrote the report in support of his allegations. The respondent denies that victimisation took place as alleged or at all and, in particular, denies that Mr Harris acted improperly towards the claimant or, if he did, this was not because of the contents of the Report.

55 Section 4 of the Equality Act, 2010, provides that sex is a protected characteristic. Section 27 of the Act deals with victimisation.

56 In order to succeed with a claim of victimisation, the claimant must establish two things. These are that

56.1 the claimant has done a protected act; and

56.2 the claimant has been subjected to a detriment by the respondent because he has done a protected act.

It is possible for an act of victimisation can take place even if the perpetrator was not aware that s/he was victimising and victimisation can be conscious or unconscious. In the present case, the allegation is that the victimisation was deliberate on the part of Mr Harris and so was a conscious act. The test for a 'detriment' is whether a reasonable worker would or might take the view that the treatment accorded to them had in all the circumstances been to their detriment. It is not necessary for a claimant to identify an actual comparator who it is alleged was treated differently.

57 The definition of a protected act is found in the Equality Act, 2010, Section 27(2). The Respondent accepts that by providing the Respondent with the Report, the claimant has done a protected act.

58 Subsections (2) and (3) of Section 136 of the Equality Act, 2010, provide

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

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

59 The Tribunal formed the view that Mr Harris was a dedicated officer who took his job extremely seriously and expected others to do the same. Whilst he was probably very supportive of those who met his standards, he was not prepared to tolerate inappropriate behaviour. He expects high standards of himself and of others. He was prepared to apologise that the award recommendation that he put the claimant forward for was not more fulsome than it had been. In response to the Tribunal's question about how he reacted to comments that had been made in evidence about him, he accepted that he recognised aspects of the person who had been described as being him.

60 The claimant was supported by Mr Harris and received help in his career and with his progression to Inspector. This may well have enhanced his view of Mr Harris and his power within the organisation.

61 It was clear from the claimant's own witnesses that officers can feel somewhat intimidated by Mr Harris. There is evidence that he treated the claimant similarly to the demanding way that he treated others.

62 None of the claimant's witnesses could give direct evidence in support of the alleged victimisation, with the sole exception of Mr Eelbeck being present when Mr Harris ordered the claimant off the premises after the second Regulation 15 Notice.

63 There was no reason why Mr Harris should be resentful about the Giles and Wheatley proceedings, let alone be resentful of the claimant for producing the Report. The earlier case was about firearms training and Mr Harris had no responsibility for this. He was not the line manager of the claimants. Contrary to the claimant's belief, Mr

Harris had not been a witness or attended at the hearing. Mr Harris is only mentioned very briefly in passing in the other Judgment, and no criticism is made of him.

64 The claimant says that Mr Harris treated the Report as a personal criticism, but this is clearly wrong. There was no express or implied criticism of Mr Harris in the report or anything to which he could take exception. Indeed, Mr Harris made clear in his oral evidence when answering questions from the Tribunal, that he thought that it had been a management error not to have accepted the Police Federation representatives' (who supported the claimants) suggestion that a different firearm be offered to the two claimant and he said that he definitely had some sympathy for them.

65 The Tribunal unanimously finds that the claimant was not subjected to any detriment as a result of his protected act, namely supplying the respondent with the Report in January 2015. The report appears to have been accepted at face value by all concerned and there is not any evidence to link what the claimant says happened to him with the Report. In particular, there is not any evidence to suggest that Mr Harris was upset by the Report in any way or that it influenced his subsequent treatment of the claimant.

66 The claimant contends that his line manager, Mr Harris, is behind all of the detrimental treatment about which he complains. His view of Mr Harris and his ability to influence the organisation may be his genuine perception after working with Mr Harris and he may feel that Mr Harris could have done more to use his influence to advance and/or protect him. However, the Tribunal feels that this is to misunderstand Mr Harris. He is a very experienced officer and, as such, his views will carry weight and he will have a good understanding of procedures and how they operate. He may also have a manner that at times can be heavy handed and inappropriate but he is very much a professional officer who expects a lot from his subordinates. Whilst he may support those who he feels on merit deserve support, there is nothing to suggest that he seeks unfair advantage for those who do not or that he would use underhand methods to undermine competent officers.

67 The Tribunal considers that the claimant may well feel that there are times when Mr Harris could have done more to support, protect or advance him, but he needs to recognise that he has not always met Mr Harris's standards and that this has lost him valuable support.

68 It is clear that the relationship between the claimant and Mr Harris has broken down and it will take considerable work on both sides for this to be corrected.

69 The Tribunal considered the evidence provided by the claimant but did not find that he established facts that supported his allegations in part or in their entirety. The claimant did experience many of the matters about which he complains but he failed to establish the link in most instances between the events and Mr Harris and, even if he had, he was unable to show that the Report had any effect on Mr Harris's treatment of him. Obviously, a person intending to victimise another is unlikely to be obvious about it but, in many cases, Mr Harris could not even be connected to the events about which complaints are made. It follows from the above that there are not facts from which the Tribunal could decide in the absence of any other explanation that the respondent contravened the provision concerned so that the provisions of Section 136 of the

Equality Act, 2010, do not apply. If this is not correct, which the Tribunal does not accept, the respondent did show that it did not contravene the relevant provision.

70 It follows from all of the above that the claimant's complaints are not well founded and are dismissed

Employment Judge Nicol

Date 21 March, 2018

REASONS SENT TO THE PARTIES ON

29 March 2018

FOR THE TRIBUNAL