EMPLOYMENT TRIBUNALS

Claimant: **Miss E Mwape**

Respondent: **University Hospitals Of Derby & Burton NHS Foundation Trust**

Heard at: **Nottingham** **On:** **Tuesday 13 November 2018**

Before: **Employment Judge P Britton (Sitting alone)**

Representatives

Claimant: **In person**
Respondent: **Ms J Danvers (Counsel)**

JUDGMENT

1. The claims of age and race discrimination are dismissed as having no reasonable prospect of success.

2. The claims that will proceed are those of detrimental treatment including dismissal by reason of whistleblowing and constructive unfair dismissal.

3. Directions are hereinafter set out.

REASONS

Introduction

1. What I have to determine as directed by another Judge and upon the application of the Respondent, is as to whether claims should be struck out, either because they are out of time or because they have no reasonable prospect of success. If I find that they are not out of time and do not have no reasonable prospect of success but have only little reasonable prospect of success, then I can make deposit orders of up to £1,000 per claim as a condition precedent of the Claimant continuing with her claims. This is pursuant to the provisions at rules 37 and 39 of the Employment Tribunals (Constitution and Rules of Procedure) Regs 2013, Sch 1.

2. There is another issue which if not apparent before, is self-evidently engaged in terms of the letter of the Claimant of 24 August 2018 and which I treat as further and better particulars in some respects, as to whether I should be amending the claim to allow an additional claim of constructive unfair dismissal.

3.I am going to give the essential scenario and having set out what the claims are and then I will move on to give my findings for the purposes of the applications.

The essential scenario

4. The Claimant who is of black Zambian heritage but a British Citizen brought her claim (ET1) to the Tribunal on 10 July 2018. Her date of birth is 8/11/1967.So she was then aged 50. She ticked the boxes as to her claims as being age and race discrimination. She is unrepresented, and although she may have a little legal knowledge, for reasons I have established today, it is self-evident that she not expert at all in matters of employment law. That probably explains the fact that the claim in many respects was not well particularised; but for reasons I shall come to the gravure of that claim was able to be established so to speak in that a colleague Judge, having been shown the ET1 at its presentation, bearing in mind that the box 9.1 had been ticked, concluded that it should be inter alia allowed to proceed as a claim for detrimental treatment by reason of whistle blowing; Albeit, the Respondent may not have realised that when it received the claim.

5. In any event, the Claimant was employed by the Respondent (the Trust) between 28 October 2015 and her resignation on 11 April 2018. She resigned to go to another hospital trust where she is employed. She earns more money than she did before because she works more hours.

6. The Claimant worked in a data team for the Respondent Trust. She raised a grievance circa 2 March 2017. This grievance was against her then line manager Michelle Graham (MG). I am aware that the Claimant was not the only one who raised a grievance that time and on a similar basis because the same occurred with Ms Tolly-Debruyne. Suffice it to say that the latter's 'claims arising out of that grievance were struck out by in fact this Judge at an attended preliminary hearing on 26 January 2018 and because they were out of time and it was not just and equitable to extend time. That is not the same scenario as in this case and because the Claimant continued in the employment and the span of her claims means that prima facie the concept of continuing acts may apply[1].

7. What the claim was about in relation to Ms Michelle Graham, could be summarised as bullying and harassment including behaving inappropriately such as breaching confidences in relation to other work colleagues in an unprofessional manner. I take, for the purposes of today, that the grievance would, on the face of it and no more than that, thus come within the definition of a public interest disclosure pursuant to Section 43B of the Employment Rights Act 1996 (the ERA) because it is evident from the extensive interview conducted by the Respondent's Investigating Officer, Mariska Faint-Uffen, with the Claimant on 27 April 2017 that the grievance, which of course would include the contents of that interview, raised matters that come within the ambit of Section 43B and in particular 43B (b) and (d). Whether this Public Interest Disclosure (PID) is in the public interest, because of course if it is not then the PID will fall at first fence, is not a matter for me today because it will require findings of fact on the evidence before the Tribunal at the main hearing. However, I observe that the NHS in particular, have been under considerable focus in terms of the need to protect whistle blowers.

8. Into the equation also comes Michelle Graham (MG) Line Manager at the material time and Annabelle Shaw (AS). If the Claimant is correct, and I take her

[1] See Hendricks v Commissioner of Police for the Metropolis (2003) IRLR 96 CA per Mummery LJ.

evidence today at its highest for the purposes of the evaluation of her prospects of success and in respect of which the papers have grown before me today, I can see that the Claimant certainly sees AS as very much linked in with MG, and thus sees her as being unsupportive of the Claimant and indeed perpetrating that which I shall come to. This is encapsulated in the series of grievances that the Claimant raised on 20 November 2017; that is to say they were accepted as being grievances by the Respondent: and the issue of AS is clearly engaged from a read of those emails as I have today. What is that about? It is, put simply that the Claimant says that post raising her first grievance against MG on 2 March 2017 and the latter Michelle obviously knowing about it, that the Claimant was isolated. She found herself, she says, in a position where she was not spoken to. She was given menial duties and she received little or no support from AS. I detect that during this period and no more than that, direct line management of the Claimant in that sense was technically with AS rather than MG.

9. On 2 August 2017, the Claimant was seen by the Investigating Officers and given the outcome of the grievance investigation viz MG. That record is before me as an appendix to the letter of Sue Chambers of the Respondent dated 9 August 2017. Suffice it to say as I do not intend to rehearse the contents thereof, that it was found that MG had fallen short of the requirements of a manager in various material ways and this would include unprofessional breaches of confidence, inter alia derogatory remarks about the Claimant and so on and so forth. The Claimant was not told what would happen to MG which left her concerned. Factoring in the response (ET3) on that issue, the Respondent says that the Claimant was not entitled to know what would happen to Michelle because it is confidential. As to that issue, I leave it for the purposes of at this stage of my reasons but I may come back to in due course.

10. The most important thing, therefore is that at that stage, it is quite clear that although the Respondent managers found shortcomings viz MG , they also found that it was not all the fault of MG and were prima facie issues as to the Claimant's own behaviour. From the documents before me, they do not appear to have been set out any steps for the Trust to take in terms of those findings.

11. Shortly thereafter, the Claimant was concerned to see Michelle back in the same team as herself. She went off sick with inter alia work related stress and anxiety. She remained off sick until November 2017. At that stage there was an Occupational Health reference made by the Trust and a first Occupational Health report was produced on 17th September 2017. The Claimant was clearly suffering with mental health issues which she says relate to the treatment of her at work. As to whether there is that causal link is not for me today. But that was the opinion of Occupation Health. It was opined that she was not fit to work at that time due to current health symptoms and:

"…I believe the time scale for her return to work is dependent on the satisfactory address of her ongoing anxieties around work. I believe that work meetings with her will currently benefit from being managed with substantial additional sensitivity and support on account of her current emotional health symptoms. I believe she will benefit from additional support during these meetings. From a person whom she is comfortable with".

12. Stopping there, albeit not for me today as such, I cannot see from the paperwork that this was necessarily addressed, ie why the continued presence of AS in the management of the Claimant? Anyway, at this stage, a second

medical report on 29 September 2017 from a Consultant Physician confirmed that she was in fact prescribed anti-depressants, although she was yet to start taking them because of fear of the side effects: stated was that she would be happy to engage in a return to work process.

13. Thus, we get to the 25 October 2017 when she was sent a letter by Grace Pearn who is a Deputy General Manager in specialist medicine. She was going to start the process apropos the Occupational Health recommendations. She sent out a perfectly acceptable, on the face of it, list of things to do with the Claimant starting with inter alia a workplace stress assessment and gave dates for them to meet. This happened in November. I have before me the record of the discussion (it is undated). By then I gather the Claimant had returned to work. The Claimant was stressing how she was "very isolated"; locked out of access to information; given little or nothing to do; and

"I have struggled to stay in work since my sick leave and received no support, I feel everything is being done to make me feel unwelcome".

14. She tells me today and again it is a matter that can be evaluated under cross examination in due course, that AS was giving her little or no support despite the Occupational Health recommendations; and that in any event the Claimant was unhappy that AS was managing her given the scenario to which I have referred.

15. The Claimant raised a further grievance on 20 November 2017. Circa that time the Claimant was placed on the re-deployment scheme, as to exactly when is not clear from the bundles put before me. From my extensive experience over some 25 years as an Employment Judge, I am well aware, particularly with institutions such as the NHS, that re-deployment is very much a last chance saloon. Absent getting a job through the re-deployment structure and the usual course is that the employee is dismissed.

16. I observe for the purposes of today as to why was the Claimant on the re-deployment route? If the Respondent had found that MG was primarily at fault, then why was it that she was not being re-deployed, why the Claimant? Or to be even handed why not both or alternatively neither? Prima facie, and no more than that, it looks to me to be potentially detrimental treatment flowing through causatively from the raising of the first grievance.

17. The Claimant clearly was worried about being on the re-deployment route for reasons which I shall come to. Against this background the Claimant raised further grievances, in that they were treated as such by the Respondent, on 20 November. I had no doubt at this stage and no more than that, that they could constitute PIDs as per the definition at 43B.For instance, that of 20 November at 15:33 addressed to Adam Race, who is a Senior Executive in the Trust:

"I also feel I have been failed at Divisional level too, because their failure to follow procedure, as per Trust policy (3.3 Division/Departmental approach) has contributed to my poor mental health….

*(*The Trust) *"has a legal duty to provide a healthy and safe work environment for all its employees and their duty of care should extend to both emotional and physical wellbeing. I am yet to believe this is true, speaking from my experience, hence my reasons to take my issues before an Employment Tribunal".*

18. As to the latter comment, I observe for the purposes of today that it may have been a bluff f; this is because it is quite clear from subsequent correspondence that the Claimant was hoping that she would be able to be retained in the Trust. I conclude for the purposes of today that this is why she did not issue the proceedings for some months. In any event at this stage the Trust appears to have been jerked back into action; hence the further referral to Occupation Health circa 15 December.

19. As to the grievance that the Claimant has raised in these PIDs, an investigation was started by Jane Lacey Hatton. She interviewed the Claimant on 10 January 2018. I shall refer back to that in due course. For the purposes of what I am dealing in terms of causation viz the whistleblowing, it is self- evident that this is engaged as to which see particularly page 5 onwards in that interview. Also in terms of the scenario subsequent to the MG grievance by the Claimant and then her return to work in November 2017, she was clearly saying that there was a heavy handed approach by people from Human Resources who become the subject of complaints in the grievances, including Donna Brown, seeking to try to impose upon her that she should return to working in the office where of course as I see it, no more than that at this stage, she would be having to work alongside AS and MG.

20. To cut a long story short, on 5 February 2018 she was again raising what would be prima facie PIDs about AS, as to which see the lengthy email she wrote to Mr Race on 5 February. At this stage he by 13 February, had taken the Claimant out of isolation, in that she had been sitting at a desk in a side room off Ward 408 with nothing to do and no one to talk to. He put her in the Medical Records Team[2]. The Claimant was happy there and so understandably Ms Danvers, Counsel for the respondent, submits surely this is a cut off for any detrimental treatment. However, what has to be factored in is that she had tried unsuccessfully for 2 vacancies that came up the re-deployment register. She had asked for feedback. She has told me today that she received none. She could see that given the job on Medical Records was strictly temporary as was made clear by Mr Race, that as she was now unlikely to get a job on re-deployment. And she says was getting no support in terms of redeployment. Therefore the writing was on the wall. Thus she resigned on 5 April 2108 effective the 11 April, having obtained employment with another NHS Trust, albeit it meant working more hours, because otherwise as a single mother with financial commitments etc, she could find herself unemployed.

21. Thence we get the presentation of the claim on 10th July 2018 following ACAS early conciliation. Only ticked were the boxes for age and race discrimination, albeit the pleaded scenario encompassed the wider issues which I have rehearsed. The point I make is simply this, is this first of all a claim based upon detrimental treatment pursuant to Section 47B of the ERA by reason of whistleblowing[3]. I have already said that another Employment Judge decided when the claim was put before him to treat it as also being a claim of whistleblowing.

22. What perhaps should have been ordered prior to this hearing was further and better particularisation, so the Respondent would have known the case it had to meet. As it is via this lengthy hearing this has now occurred.

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[2] Or is it medical recruitment? As to which see the Claimant's resignation letter dated 4 April 2018.

[3] *"A worker has a right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the worker has made a protected disclosure".*

23. Thus prima facie, and no more than that of course, as I make no findings of fact today, other than of course for the purposes of this adjudication, that this scenario would appear prima facie to come within Section 47B (1).

24. Is it out of time? Ms Danvers says the cut-off point surely has got to be, 1) the placing of the Claimant on the re-deployment register, not what happens thereafter in relation to it. Her 2nd point is the placement of the Claimant by Mr Race in medical records. But I have now dealt with this the re-deployment process is a continuing act. It continues to be to the detriment of an employee who is at risk unless and until that employee is found a job. Turn it round another way, each time that the employee is rejected for a job and thus remains in the limbo land of re-deployment, is in that sense detrimental treatment in that it is clearly to the disadvantage of the employee. As to whether it is caused by the whistleblowing is not for me today other than that prima facie, no more than that, there appears to be a causative chain. It follows that I do not accept that there was a break in continuity such as to mean the claim is out of time. The re-deployment issue in terms of a detriment continued up to the Claimants resignation. Thus, when she brought the claim to the Tribunal it was just within the 3 months time limit, factoring in the ACAS EC period, applicable for the purposes of bringing such a claim.

Conclusion on this issue

25. It follows that I am not striking out the PID based claim as being out of time. Do I consider that claim to have no reasonable prospect of success?
Today has been a lengthy hearing and I have given, as the parties know, the most conscientious care to this case. I remind myself of the clear line of authority apropos **Anyanwu and anor v South Bank Student's Union and anor** 2001 ICR 391, HL although I have of course taken on board the observations of Mr Justice Langstaff at in particular paragraphs 20 and 21 of **Chandhok and another -v- Tirkey** (Equality and Human Rights Commission Intervening) UKEAT/190/14[4].

26. Prima facie there is a case to answer. Therefore I will not strike it out as having no reasonable prospect of success. Furthermore this case is very much dependent upon the findings of the Tribunal at the main hearing. On my analysis by the same token I cannot conclude it has only little reasonable prospect of success. It follows that I am not ordering a deposit.

The constructive unfair dismissal claim

27. This in effect, I treat as an application to amend. I cannot read in to the original claim that it was a claim that included constructive unfair dismissal. It really did not say anything about how or why the Claimant had departed the employment. It dealt with events, as I said in terms of the grievance and the issues as I have sketched them out to be.

28. But when the Claimant wrote into the Tribunal on 24 August with her schedule of loss, in her seven page letter, which is clearly further particulars, inter alia she said:

[4] Put before me by Ms Danvers.

"£70,000 for constructive dismissal as per employment law, I feel that the Trust allowed senior staff to behave in a tolerable[5] manner towards me, before and after I was bullied twice. I had to report for work, in very hostile environment which affected my mental health. I also feel that the Trust did not fulfil their obligations towards me as per re-deployment policies. I did complain about a few cases where I was not even provided with outcomes of job interviews…"

29. This brings in the well known line of authority commencing with the Judgment of Mr Justice Mummery as he then was in **Selkent Bus Company Limited v Moore** [1996] ICR 836 EAT.

30. The first point to make is this, the time limit for bringing a claim for unfair dismissal, whether it be direct or constructive, is 3 months from the effective date of termination. This can be extended by the ACAS early conciliation period, but it cannot come to the rescue in this case because the ACAS early conciliation was between 17 January and 23 January 2018. Therefore the time would run for 3 months from 11 April 2018 and therefore, the last date for bringing any such claim would have been 12 July 2018. As it is of course, it was not brought, subject to granting any amendment, until the receipt of this letter date 24 August, so it is about 1½ months out of time.

31. The Tribunal would, if this was a denovo claim, therefore look at the matter simply in terms of seeking any explanation from the Claimant and the light thereof, it having been tested under cross examination, as to whether it was not reasonably practicable to have brought the claim within time and if not, was it brought within a reasonable time thereafter. In particular, the Tribunal would focus on the explanation of the Claimant, particularly being legally unrepresented and look at matters in terms of was there some impediment of significance operating on her mind such as to have presented her from bringing the claim within time. That is as per **Palmer and anor v Southend-on-Sea Borough Council** 1984 ICR 372. The Claimant was very muddled on this point. What she said is that before she brought her claim to the Tribunal she had looked on the Citizens Advice Bureau website for some advice: and although she knew of the concept of constructive unfair dismissal from her reading, she did not know if that meant you could bring it to a Tribunal. I do not understand what it is that changed between then and 24 August if that be correct, because I have not heard that the Claimant learnt something new.

32. On the other hand, the Claimant tells me that during this period and up until presumably she was feeling a bit better, lets presume by 24 August, that she had a lot on her plate with the new job, the mental health issues for which she was now taking anti-depressant medication, coping with longer working hours and the demands of being a single mum with a 7 year old child and trying to catch up on her Open University degree studies. Ms Danvers submits that if the Claimant was capable of undertaking a catch up on her university studies, then surely she could have addressed her mind earlier to the issue of the constructive unfair dismissal. It is a good point that Ms Danvers makes.

33. So, it is a factor in the balancing exercise. However, the fact that the claim is therefore out of time is not necessarily fatal to my adjudication. It factors of course in the scales in determining where the interests of justice lie in terms of granting or refusing the amendment. This was a point made particularly plain by Mr Justice Underhill, as he then was, in **Transport and General Workers Union v Safeway Stores Ltd** EAT 0092/07. This overall approach follows **British**

[5] Given the context of this paragraph obviously should read intolerable.

Newspaper Printed Corporation (North) Limited v Kelly and ors 1989 IRLR 222 CA and more recently and of therefore more significance **Ali v Office of National Statistics** 2005 IRLR 201 CA.[6]

34. Thus as per the dicta in **Safeway Stores**:

"That there will be circumstances in which, although a new claim is technically being brought out of time it is so closely related to the claim already, the subject of the claim, that justice requires the amendment to be allowed…".

35. Well of course the claim is inextricably linked to the scenario I have now extensively set out. The resignation is the end of the scenario for reasons I have now elaborated on.

36. As to the other **Selkent** factors, Ms Danvers does query, how this can be a repudiatory situation given in her resignation letter she signed of with:
" It has been a pleasure working with the medical recruitment Team".

But prima facie this has to be seen in context namely that this appears to have been the temporary role. If the Claimant is correct, but for the treatment prior thereto which I have now researched she wouldn't have left the employ. So there is a triable issue.

37. Is the Respondent Prejudiced? No. It is fully able to plead to this case and it is not saying it cannot. Is it going to extend time in a way that puts the Respondent at substantially additional costs? No. It is a simple point, it flows with the rest of the case. Was the Claimant detrimentally treated? If so, was it because of the grievance/grievances, and if so, was that detrimental treatment repudiatory in the context of ie unfair dismissal.

38. The final point I make in terms of the scales of justice is that the Respondent is not at significant additional financial risk. The Claimant went to a job which pays her more. If she won the unfair dismissal claim, the most she is going to get is a basic award of approximately 3 weeks gross pay at the statutory cap (then £485) and possibly an award for loss of statutory rights: maximum £485. There is no breach of the ACAS code of practice engaged. So, I have decided to allow the constructive unfair dismissal claim to proceed. This for the avoidance of doubt also engages in terms of the constructive dismissal claim for the reasons I have already given, constructive unfair dismissal by reason of whistleblowing pursuant to s103A.

The age and race claims

39. But I now pray in my aid Mr Justice Langstaff's observations at paragraph 20 and 21[7] in **Chandhok and another -v- Tirkey** and thus explaining where strike out can in exceptional circumstances be at law justified within the dicta in particular of **Anyanwu**

"20. This stops short of a blanket ban on strike-out applications

[6] See the extensive commentary on out of time and amendments as per Employment Tribunal Practice and Procedure in Employment law handbook May 2014 edition page 457.

[7] He is restating in that respect the judgement per Mummery LJ in **Madarassy v Nomura International Plc** 2007 ICR 867 CA.

succeeding in discrimination claims. There may still be occasions when a claim can be properly struck out ….or where, on the case as pleaded there is really no more than an assertion of a difference of treatment and a difference of protected characteristic which (cited from Mummery LJ)

…" only indicate a possibility of discrimination. They are not without more, sufficient material from which a tribunal " could conclude" that, on the balance of probabilities, the respondent has committed an unlawful act of discrimination…"

40. I of course remind myself that:

" *the general approach remains that the exercise of a discretion to strike out a claim should be sparing and cautions".*

But there is no edict against never striking out, otherwise why have the rule; and in any event there is a remaining discretion albeit to be exercised sparingly as per the jurisprudence which I have just recited.

41. Back to the ET1 particulars, not a word about race discrimination, just the box ticked, same for age discrimination. The Claimant was only aged 50. In the particularisation, nothing. It is all about the chain of causation stemming from the first grievance. As to the further particulars received on 24 August, nothing further. As to the grievances and the resultant extensive internal interviews of the Claimant, at none of them throughout the period does she raise such discrimination. So, at no stage internally did this Claimant, with the fullest opportunity to give her case to the investigators, ever raise race or age. She has provided no specifics today just an assertion of belief. And the extensive documentary evidence before me provides nothing to support such a belief unlike the whistle blowing scenario. There as per the dicta to which I have referred I am driven to the conclusion, given this is simply an assertion with nothing forensically to back it up and no allegations made in the context which provide any material at all, that I should dismiss the age and race claims as having no prospect of success.

Conclusion this issue

42. The age and race claims are struck out as having no reasonable prospect of success.

The way forward

43. What it means is that I am going to let the Claimant proceed with a claim based upon whistleblowing and constructive unfair dismissal.

Quantum

44. The Claimant has proposed in the schedule of loss element of the further and better particulars letter to which I have now referred, that she should receive a minimum award for injury to feelings of £250,000 and a further £70,000 for the unfair dismissal. Let me take them in reverse order. The Tribunal has no jurisdiction to award injury to feelings for unfair dismissal. It follows that her claim cannot be for more than a basic award and loss of statutory rights for the reasons I have already given. As to the s47B the Tribunal can award injury to feelings but is it likely to get anywhere near £250,000? I urged the Claimant to have a look at

the joint guidance on awards for injury to feelings issued by the Presidents of the Employment Tribunals of England and Wales and Scotland. I gave her the hyperlink. Furthermore I urged that she should seek advice. I referred her to free legal ports of call such the Derby Law Centre and the Nottingham Law Centre. Finally, she should be aware that to my knowledge the Nottingham University and Trent University Law Schools also offer a pro bono legal service.

Judicial Mediation

45. I explained the process. I consider this case is suitable. I urge the parties to consider that course of action and to notify the Tribunal accordingly.

Particularisation

46. It is essential that the Respondent knows the case it has to meet. I have agreed with the Claimant and hereinafter listed the detriments. For the avoidance of doubt, if she disagrees with what I have recorded, or to turn it round another way, wants to add something else, this **she must do within 14 days of receiving these Orders.** If she does not, this will be taken as being a definitive list. Having gone through it carefully with the Claimant in a very lengthy hearing today, I would not expect to actually see anything else but we shall see.

47. The classification of detriments is currently as follows;-

47.1 Post raising of the grievance viz MG on 2 March 2017, in the period up to the Claimant going off sick in September her being kept in the Data Team Office but isolated and excluded, the principle perpetrator being AS.

47.2 Following the Claimant's return to work from sick leave in November and despite the Occupation Health Reports, being further isolated and excluded; and at this stage by being placed in a side room off Ward 408, the principle perpetrator being AS, with the additional aggravating factor says the Claimant, that she was wrongly being placed under pressure by an Human Resources team including Donna Brown to re-join working in the team despite there having been no removal of AS or indeed her having been notified as to what was happening with MG, the latter still working in the same building.

47.3 Being wrongly placed on the re-deployment register rather than being placed back in the data team with the removal of AS and assurances that MG would be removed from any prospect of working in vicinity to the Claimant, ie the main building in which the Claimant was situate.

47.4 Furthermore that by being placed on the re-deployment register, not only was the Claimant therefore wrongfully put at risk to her detriment but she was not provided with proactive support in terms of securing employment with the Respondent, and her request for feedback in terms of interviews that she had undertaken was ignored.

Directions

48. The hearing is currently listed for **3 days** before a full Tribunal at **The Tribunal Hearing Centre, 50 Carrington Street, Nottingham, NG1 7FG, commencing on 14 November 2019.**

49. There obviously now needs to be a further case management

discussion. This can be done by telephone. In the run up thereto, it would be of great help if the Respondent could provide, for the Claimant to look at, its proposed directions. I would expect it to cover the number of witnesses to be called by the Respondent including the anticipated time estimate; any provision for a reading in period by the Tribunal; chronology; cast list etc. The Claimant can then have a look at that and she can also think about whether she intends to call any persons to give evidence in respect of her own case and where she is at in terms of their availability to give evidence in matters of that nature.

50. Having so made that direction, I am therefore ordering that there will be a telephone case management hearing on **Thursday 13 December 2018 at 14:00 pm** and is listed for **1 hour.** The telephone number to dial is **0333 300 1440 and access code 000259#** when prompted.

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Employment Judge P Britton

Date: 3 December 2018

JUDGMENT SENT TO THE PARTIES ON

FOR THE TRIBUNAL OFFICE