



EMPLOYMENT TRIBUNALS

**Claimant**  
**Ms C Poku**

**Respondents**  
v (1) **NHS Croydon CCG**  
(2) **Ms A O'Grady**  
(3) **Ms R Colley**

**CLOSED PRELIMINARY HEARING**

**Heard at: London South**

**On: 5 February 2019**

**Before: Employment Judge Truscott QC**

**Appearances:**

**For the Claimant: in person**  
**For the Respondent: Mr C Kennedy of Counsel**

**JUDGMENT on PRELIMINARY HEARING**

1. The claims of race discrimination numbers 2, 4, 13, 38, and 48 (with the exception of the identified passage therein) on the table included herewith are struck out as having no reasonable prospects of success.
2. The claims of sex discrimination are struck out as having no reasonable prospects of success.
3. The claims of age discrimination are struck out as having no reasonable prospects of success.
4. The claims of disability discrimination are struck out as having no reasonable prospects of success.
5. The claim of harassment numbers 25, 39 and 48 are struck out as having no reasonable prospects of success.
6. The claims of victimisation numbers 15, 21, 23 and 43 are struck out as having no reasonable prospects of success.
7. The claims numbered 10, 26, 30, 42, 45 and 47 are struck out as having no reasonable prospects of success.

8. A deposit order is not made in respect of the continuing claims against the respondents.

**REASONS**

**Preliminary**

1. This Preliminary Hearing was listed to determine the following:
  - a. The respondents’ application for strike out of the claimant’s claims or deposit orders;
  - b. The claimant’s complaints about the respondent’s behaviour;
  - c. To agree a list of issues and make appropriate case management orders for the final hearing which has been listed for 5 days commencing 1 April 2019.
2. The claimant confirmed that she had no current complaints about the behaviour of the respondents.
3. Case management orders are issued in a separate document of the same date.
4. The respondents’ Counsel produced a table of the complaints made by the claimant with categorisations derived from the ET1. The claimant produced a list of issues which was a long list of facts under different discrimination headings.
5. The table:

Allegation Number from the ET1	Date of allegation	Allegation summary (as set out in the ET1)	Type of Discrimination alleged by the Claimant					
			Race	Sex	Age	Disability	Harassment	Victimisation
1.	22.12.17	AOG made a racial remark regarding Christmas presents, in reply to my saying I give jumpers to the poor on Christmas she said ‘From the start you would have had low expectations’.	X					
2.	18.01.18	RC said that due to immigrants in Croydon taking advantage was the reasons for putting	X					

		strains on the system. AOG said that Caucasian middle-class people 'knew how to use the service' and 'did not use it all'. RC and AOG made reference to ethnic minorities abusing the service. RC and AG would occasionally make sexist and racist remarks concerning myself, staff members and Croydon people.						
3.	14.12.17	RC made a sexist discriminating remark against pregnant women and said that it was bad for working women to get pregnant due to it affecting the amount of time they could spend at the work place.		X				
4.	12.12.17	RC sent an email requesting AOG, my predecessor and myself to attend different meetings. RC said 'please' to everyone apart from me.	X		X			
5.	22.12.17	I was asked to produce a letter response to complaints. Croydon CCG has a complaint response team that are responsible for responding to complaints. Predecessor or any other person in the same role and banding did not do.	X	X	X			
6.	04.01.18	AOG and RC constantly made sexist remarks concerning men. RC and AOG said that my		X				

		predecessor was a 'Useless Guy', 'Pointless man' and 'Didn't do any work'. RC called a male member of staff, Robert Rose, 'Useless' because he could not follow the morning call layout. RC does not criticise female staffs when they do not follow the same layout.						
7.	10.01.18	RC said that an external colleague, Geraldine Rodgers, was an old woman trying to make profit.		X	X			
8.	10.01.18 12.01.18	AOG was constantly aggressive when delegating tasks to me. On 10.01.18, AOG hit my back and shoulders because she said I delayed sending an email. This caused post-traumatic stress and physical pain.  On 12.01.18, I had a meeting with Stephen Warren after working hours to discuss the discrimination and assault by AOG and expressed to him my concerns and nothing was being done concerning the discrimination. I was forced to remain in a hostile environment which would have been different if both respondents were male.	X	X	X	X		
9.	15.01.18	RC hit my Hand and pushed it off my	X	X	X	X		

		mouse and shouted 'I told you to send the email to Rachel Souster and you (swear words) delayed.' She then moved closer to my face, I thought she was going to punch me and gave me an offensive look, looked around and threatened 'This is not the place to do it, I will deal with you later'. I suffered arm and wrist pain for a couple of weeks and post-traumatic stress disorder. RC knew that due to my dysphasia, I would take longer to respond to situations. The assault affected my work and personal life and caused irreversible mental damage						
10.	15.01.18	I remained seated at my desk for long period of hours. I became hypervigilant and felt as if I was going to be attacked by every person. Since being at Croydon CCG, I have suffered from insomnia, flashbacks, nightmares, heart Conditions and isolation.						
11.	15.02.18 22.02.18	AOG gave me multiple tasks due in short amount of time and did not take into account my disability. Furthermore, the workload increased	X	X	X	X		X

		when I made a grievance.						
12.	16.01.18 - 18.01.18	RC shouted about giving her feedback on the morning call. This caused me distress and embarrassment since it is an open office.						X
13.		As part of my role I was required to produce minutes and summaries. Due to my disability, I found it increasingly difficult to comply with the requirements because I was not given any support or technology. The CCG did not make adjustment to my computer and equipment to enable me to produce work efficiently. No support was given.	X			X		
14.	16.01.18	RC arranged a 1:1 meeting with Alison O'Grady and myself in a closed room and they shouted and insulting me, and criticised my speech. This was disability discrimination.				X		
15.	16.01.18	RC was not my manager, she would control and delegate task to me, all in the form of discrimination and bullying.  RC had arranged a 1:1 meeting with me and AOG to take place in a closed room.  During the meeting, Rachael Colley said to me 'Stephen [warren]		X	X			X

		<p>can tell me to remove myself but I won't, I will be on the side lines watching like a hawk'. RC said she was 'not happy' with me and I would find myself being 'called into HR meeting to downgrade my salary'. She then proceeded to tell me that I wouldn't be attending the meeting with Anne Jackson because I am 'clueless' and 'won't be able to answer anything'. AOG agreed with RC and said that 'I am not the right person to represent the organization' and 'you can't even express yourself or explain anything'. My predecessor, who is an older Caucasian male, could meet anyone including Anne Jackson.</p> <p>RC and AOG were isolating me into closed rooms to intimidate, bully me to prevent me from making a grievance.</p>							
16.	16.01.18	RC and AOG would exclude me from conversations, Lunch and would not greet me in the morning.	X		X				X
17.	17.01.18	Meeting with AOG who aggressively shouted at me concerning arranging to meet Anne Jackson. Also, when I expressed that this is intimidation, her response was	X			X			X

		'she can force me to do anything because she is a manager' and if I don't do it, I would find Myself in a HR meeting and fired.						
18.	04.01.18 10.01.18 16.01.18 17.01.18	When I spoke to AOG she would respond with 'WHAT!'. Whereas, when another older or Caucasian colleague spoke to Alison O'Grady she did not respond with 'What!'. This is victimization since after the 1:1 meeting on 16th January 2018, AOG would be volatile and aggressive with me	X		X			X
19.	22.01.18	AOG called me into a closed room to falsely accuse me of sending out CUCA alliance document to Anne Jackson.	X		X			X
20.	24.01.18	I spoke to Director Stephen Warren concerning AOG and RC harassing and discriminating against me. Stephen Warren told me 'If you are really getting bullied then prove it' and the discrimination is in the 'past' so I should just move on'.	X	X	X	X		X
21.	01.02.18	When I complained about the harassment by AOG, she would burden me with large amount of work and treated me like a personal assistant.						X
22.	01.02.18	RC sent an email that she was going to be on annual leave and needed someone with				X		



		'some UC knowledge to be around'.						
23.		I was writing in my bullying diary on the computer and Rachael Colley, whose desk is next to mine, was staring at my screen and saw I was keeping a record of the discrimination. RC and AOG gave me a rude look.						X
24.	08.02.18	It was 17:00 and I was getting ready to leave the office. AOG told me that since I arrived 10 minutes late in the morning, I would be staying back for 30 minutes.	X		X			X
25.	05.01.18 05.02.18 14.02.18 13.03.18	I had nervous breakdowns and cried due the harassment and discrimination.					X	
26.	16.01.18	After 16.01.18 the 1:1 meeting took place in a closed room so that AOG and RC could shout, discriminate and intimidate me and there were no witnesses.						
27.	06.02.18 08.02.18	AOG and RC said I cannot carry over my annual leave to the following year whereas other staff could. No reasons provided.	X	X	X			
28.	13.02.18	Meeting with Stephen Warren about the grievance, following which AOG refused to give me access to my desk and computer.						X
29.	13.02.18	I told Stephen Warren that since speaking out about the grievances, AOG and RC had						X

		become more aggressive and discriminating.						
30.	15.01.18 16.01.18 01.02.18 21.02.18 08.03.18 14.03.18	I suffered from severe night mares and flashbacks. I couldn't sleep and only ate sweets for lunch to obtain energy.						
31.	15.02.18	AOG bent over me and aggressively told me to instantly respond to an email whilst I was having a conversation with a colleague.	X		X			
32.	19.02.18 - 08.03.18	AOG organized multiple 1:1 meeting in a closed room to shout and verbally abuse me. This is victimization since the 1:1 increased when I made the grievance.						X
33.	21.02.18	I went on a break, following which AOG aggressively approached me at my desk and forced me to walk outside the office and shouted at me. This was after I reported my grievance. I rarely went for lunch compared to AOG and RC who went for a one-hour lunch.						X
34.	21.02.18	Due to my dyslexia and dysphasia, I would go to close rooms to work and take notes. AOG threatened t I had to stay at my desk all the time without getting up. AOG discriminated against my disability. When I couldn't recall				X		

		some information, AOG sarcastically said 'Do you have brain issues.						
35.	22.02.18	<p>AOG made various discriminatory statements:</p> <ol style="list-style-type: none"> <li>1. Since I am younger, I should not be on an 8A band since another Caucasian is on grade 6 band and she writes better minutes. Alison O'Grady made me feel bad about my disability. This is disability and race discrimination since she compared me to a Caucasian colleague.</li> <li>2. AOG said that since she was 37 when she was on a band 8A and I shouldn't be on.</li> <li>3. AOG used unprofessional language during the conversation such as 'Pissed off.</li> <li>4. AOG repeatedly called me an 'Adolescent' and said 'look at you, your face, and posture'. This is age and racial discrimination.</li> </ol>	X	X	X	X		

36.	22.02.18	AOG said that my eyes light up when I see another ethnic colleague, Josephine Shying.	X					
37.	22.02.18	AOG admitted that RC was 'Pretty Harsh', 'Horrible' and 'Shouted' at me. AOG said that she was angry that I had made a grievance concerning the bullying and discrimination and had not included RC.						X
38.		Only Caucasian colleagues are promoted whereas ethnic minorities are ignored. RC after being at Croydon CCG for 6 months was promoted from a line manager to an Associate director. In comparison, two ethnic colleagues who have been at Croydon CCG as managers for two years have not been promoted.	X	X	X			
39.	28.02.18	AOG said that Clinical lead Angelo Fernandez meeting was 'boring and waste of time'. RC said 'Nothing Angelo Fernandez say is interesting. You shouldn't be attending those meeting. Not someone on your level. You should leave it to the likes' and motioned her head towards me.	X	X	X	X	X	
40.	01.03.18	I was told by AOG that since I had worked from home on due to	X		X			X

		the snow, it would be coming out from my annual leave. Other colleagues worked from home.						
41.	01.03.18	I approached HR Bunmi Brookman to discussed 1:1 with Alison O'Grady and Myself. Bunmi Brookman pushed and hit me. She threatened that I should move from her desk since I had 'complained to her manager about her'. As a result of the assault, I had shoulder pain in my right side for a month.	X	X	X	X		X
42.	03.03.18	I contacted ACAS to discuss mediation, early reconciliation and asked advice about assault, bullying and harassment in work place.						
43.		Croydon CCG did not adhere to ACAS Discrimination/grievance procedure.						X
44.	08.03.18	Meeting with head of HR, Tim Widdowson who said he was aware of the grievance. Tim Widdowson said my only option would be to talk to AOG and Bunmi Brookman. Tim Widdowson admitted said Bunmi Brookman was angry at the moment that was the reason she had pushed me, but I shouldn't make a grievance since it						X

		wouldn't 'go anywhere'.						
45.		CCG dismissed my concerns and discriminated against me because of my grievance.	X	X	X	X		X
46.	08.03.18	Tim Widdowson said even if RC and AOG were harassing, abusing and discriminating against me, the people involved are too 'powerful' to be fired and nothing would change. Also, if I put in a grievance it would impede promotion or me staying at the CCG since 'the directors' would dislike me and I would be forced to leave.						X
47.	13.03.18	Spoke to ACAS about the assaults and bullying.				X		X
48.	14.03.18	AOG shouted at me when I asked her a question. As a result of the discrimination and constant bullying by AOG, it caused my bladder to become weaker, affected Heart conditions, coughing up blood, and depression. I contacted ACAS and as a result I have been discriminated and victimization by Croydon CCG. It was a hostile environment.  Colleagues at work were concerned about my health and asking	X	X	X	X	X	X

		<p>why I was not eating. I</p> <p>Croydon CCG encourage the discrimination; due to having no diversity at higher positions,</p> <p>Croydon CCG did not want to deal with the discrimination. As a result of being discriminated, harassed and assaulted, it worsened my disability, caused new illnesses and has caused permanent physical and mental injuries.</p>						
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**Submissions**

24. The claimant explained that as a young, black woman with a disability she had categorised the complaints according to her protected characteristics. In relation to the deposit order request, she said she had no capital or income and relied on the generosity of friends.

25. The respondent submitted that in the light of the fraud perpetrated by the claimant on gaining employment all of her claims should be struck out. In addition, Counsel made submissions on each allegation set out in the table.

**Relevant Legal Framework**

**Requirement of fair notice of a claim**

26. It is trite to say that parties should know, in advance, reasonable details of the nature of the complaints that each side is going to make at the hearing, see **White v. University of Manchester** [1976] ICR 419 EAT.

**STRIKING OUT**

27. An employment judge has power under Rule 37(1)(a), at any stage of the proceedings, either on its own initiative or on the application of a party, to strike out all or part of a claim or response on the ground that it has no reasonable prospect of success. In **Hack v, St Christopher’s Fellowship** [2016] ICR 411 EAT, the then President of the Employment Appeal Tribunal said, at paragraph 54:

Rule 37 of the Employment Tribunal Rules 2013 provides materially:-

“(i) At any stage in the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds – (a) Where it is scandalous or vexatious or has no reasonable prospect of success...”

55. The words are “no reasonable prospect”. Some prospect may exist, but be insufficient. The standard is a high one. As Lady Smith explained in *Balls v Downham Market High School and College* [2011] IRLR 217, EAT (paragraph 6):

“The Tribunal must first consider whether, on a careful consideration of all the available material, it can properly conclude that the claim has no reasonable prospects of success. I stress the words “no” because it shows the test is not whether the Claimant’s claim is likely to fail nor is it a matter of asking whether it is possible that his claim will fail. Nor is it a test which can be satisfied by considering what is put forward by the Respondent either in the ET3 or in the submissions and deciding whether their written or oral assertions regarding disputed matters are likely to be established as facts. It is, in short, a high test. There must be no reasonable prospects...”

56. In *Romanowska v. Aspirations Care Limited* [2014] (UKEAT/015/14) the Appeal Tribunal expressed the view that where the reason for dismissal was the central dispute between the parties, it would be very rare indeed for such a dispute to be resolved without hearing from the parties who actually made the decision. It did not however exclude the possibility entirely.

28. The EAT has held that the striking out process requires a two-stage test in *HM Prison Service v. Dolby* [2003] IRLR 694 EAT, at para 15. The first stage involves a finding that one of the specified grounds for striking out has been established; and, if it has, the second stage requires the tribunal to decide as a matter of discretion whether to strike out the claim, order it to be amended or order a deposit to be paid. See also *Hassan v. Tesco Stores* UKEAT/0098/19/BA at paragraph 17 the EAT observed:

“There is absolutely nothing in the Judgment to indicate that the Employment Judge paused, having reached the conclusion that these claims had no reasonable prospect of success, to consider how to exercise his discretion. The way in which r 37 is framed is permissive. It allows an Employment Judge to strike out a claim where one of the five grounds are established, but it does not require him or her to do so. That is why in the case of *Dolby* the test for striking out under the *Employment Appeal Tribunal Rules 1993* was interpreted as requiring a two stage approach.”

29. It has been held that the power to strike out a claim on the ground that it has no reasonable prospect of success should only be exercised in rare circumstances (*Tayside Public Transport Co Ltd (t/a Travel Dundee) v. Reilly* [2012] IRLR 755, at para 30). More specifically, cases should not, as a general principle, be struck out on this ground when the central facts are in dispute.



30. In **Mechkarov v. Citibank N A** UKEAT/0041/16, the EAT set out the approach to be followed including:-

- (i) Ordinarily, the Claimant's case should be taken at its highest.
- (ii) Strike out is available in the clearest cases – where it is plain and obvious.
- (iii) Strike out is available if the Claimant's case is conclusively disproved or is totally and inexplicably inconsistent with undisputed contemporaneous documents.

31. As a general principle, discrimination cases should not be struck out except in the very clearest circumstances, **Anyanwu v. South Bank Students' Union** [2001] IRLR 305 HL. Similar views were expressed in **Chandhok v. Tirkey** [2015] IRLR 195, EAT, where Langstaff J reiterated (at paras 19–20) that the cases in which a discrimination claim could be struck out before the full facts had been established are rare; for example, where there is a time bar to jurisdiction, where there is no more than an assertion of a difference of treatment and a difference of protected characteristic, or where claims had been brought so repetitively concerning the same essential circumstances that a further claim would be an abuse. Such examples are the exception, however, and the general rule remains that the exercise of the discretion to strike out a claim should be 'sparing and cautious'.

32. In **Ahir v. British Airways plc** [2017] EWCA Civ 1392 CA, Lord Justice Underhill reviewed the authorities in discrimination and similar cases and held at paragraph 18, that:

"Employment tribunals should not be deterred from striking out claims, including discrimination claims, which involve a dispute of fact if they are satisfied that there is indeed no reasonable prospect of the facts necessary to liability being established, and also provided they are keenly aware of the danger of reaching such a conclusion in circumstances where the full evidence has not been heard and explored, perhaps particularly in a discrimination context."

## DEPOSIT ORDERS

33. A deposit order can be made if the specific allegation or argument has little reasonable prospect of success. In **Hemdan v. Ishmail** [2017] IRLR 228, Simler J, pointed out that the purpose of a deposit order 'is to identify at an early stage claims with little prospect of success and to discourage the pursuit of those claims by requiring a sum to be paid and by creating a risk of costs ultimately if the claim fails' (para 10), she stated that the purpose 'is emphatically not to make it difficult to access justice or to effect a strike out through the back door' (para 11).

34. As a deposit order is linked to the merits of specific allegations or arguments, rather than to the merits of the claim or response as a whole, it is possible for a number of such orders to be made against a Claimant or respondent in the same case.

35. When deciding on the amount of the deposit, a Tribunal must make sure that the order 'does not operate to restrict disproportionately the fair trial rights of the paying party or to impair access to justice' according to Mrs Justice Simler at paragraph 16 of **Hemdan**. It is important that the order is one that is capable of being complied with, and that a party without the means or ability to pay should not be ordered to pay a sum that he or she is unlikely to be able to raise (para 17).

## CONCLUSION

36. The Tribunal noted that the ET 1 submitted by the claimant was lengthy and detailed. For this hearing, the claimant provided a list of issues which was a lengthy list of factual assertions under a number of discrimination headings. The Tribunal was unable to ascertain the extent to which the list repeated or added to the allegations in the ET1. The Tribunal proceeded on the basis of the ET1.

37. The Tribunal did not accept the respondents' submission that all the claims should be struck out because of the fraud perpetrated by the claimant in gaining employment with them.

38. The claimant's rationale for her claims as she explained in submissions is not sustainable in law. Simply because she has certain protected characteristics is insufficient to sustain claims of discrimination against her on the basis of these characteristics. The Tribunal considered how the claimant might establish a *prima facie* case generally, for each characteristic and in relation to the specific allegations. The Tribunal considered the claimant's case on its own merits and took it at its highest. Whilst the Tribunal should have been content to accept Counsel's assurance that the table accurately reflected the ET1, the Tribunal checked the ET1 and the table to confirm the position and then proceeded on the basis of the table. This table is incorporated in this judgment although the right hand column for comparators has been removed. No comparators were identified by the claimant in this column but some comparison can be identified from the narrative in column 2.

39. Overall the Tribunal concluded that taking into account the short period of employment and the plethora of allegations made by the claimant with no rationale for making the claims other than her own characteristics, the claimant would not succeed in her claims of sex and age discrimination, harassment and victimisation based on these characteristics. The fact that she did not name comparators does not mean that her claim cannot succeed but the failure to address how she would establish her claims under each of the protected characteristics was an insurmountable problem.

40. In relation to disability, there was a case management hearing conducted by EJ Nash on 14 August 2018 which concerned itself with, among other things, obtaining the information from the claimant necessary to establish disability and formulate reasonable adjustments. No information has been provided by the claimant. The Tribunal noted that there was no mention of reasonable adjustments for disability in the list of issues document she provided, simply direct discrimination. The claimant accepted at the hearing that her claims so far as based on disability could not continue and should be dismissed. The Tribunal was not entirely confident that the claimant understood the implication of what she was saying so the Tribunal itself examined the disability claims. The Tribunal concluded that the claimant would be unable to establish that she was disabled and consequently her claims would fail.

41. The Tribunal then took on board the authoritative exhortation about not striking out discrimination cases and sought not to be too pedantic about the pleadings when weighing up the appropriate course of action as the claimant was a party litigant. The Tribunal exercised its discretion considering the claims in the round and also individually. The Tribunal concluded that the claims based on sex, age and disability,

harassment, and certain inspecific allegations as detailed in the judgment had no reasonable prospects of succeeding and should be struck out.

42. The Tribunal considered each claim in the table as follows.

43. Allegation 1 is a comment which is described as a racial remark made to the claimant, whether it was made and whether it was so directed, is a matter for evidence.

44. Allegation 2 narrates general racist comment. Only the part of the allegation "RC and AG would occasionally make sexist and racist remarks concerning myself, staff members and Croydon people." includes the claimant and although referable to 18 January 2018 is not specific as to date or content. The claim is struck out.

45. Allegation 3, is a general comment alleged to have been made against pregnant women. The claimant was not a pregnant woman. The claim is struck out.

46. Allegation 4 is that RC said please to everyone except the claimant. This claim, based on race and age is struck out as it lacks any substance.

47. Allegation 5 identifies a comparator and differential treatment. The claim based on race should proceed to a hearing, the claim based on sex and age is struck out as the claimant has no prospect that the reason for the behaviour was sex or age.

48. Allegation 6 narrates sexist comments against men, the sex discrimination claim by the claimant cannot succeed on this basis and is struck out.

49. Allegation 7 does not affect the claimant, both sex and age claims by the claimant cannot succeed on this basis and are struck out.

50. Allegation 8 narrates treatment of the claimant. The claim should proceed to a hearing based on race and is struck out for sex, age and disability.

51. Allegation 9 narrates treatment of the claimant. The claim should proceed to a hearing based on race and is struck out for sex, age and disability.

52. Allegation 10 describes the feelings of the claimant which may be relevant for remedy but is struck out as a complaint against the respondents.

53. Allegation 11 should proceed to a hearing based on race and race victimisation and is struck out for sex, age and disability as no basis for the claims is provided.

54. Allegation 12 should proceed to a hearing based on race victimisation.

55. Allegation 13 is struck out for both race and disability as it is not specific in any material respect.

56. Allegation 14 is not pled as race discrimination and is struck out as disability discrimination as no basis for the claim is provided.

57. Allegation 15 is not pled as race discrimination and is struck out as sex age and victimisation claims as no basis is provided to sustain the claims.
58. Allegation 16 should proceed to a hearing based on race and race victimisation and is struck out as age discrimination as no basis for the claim is provided.
59. Allegation 17 should proceed to a hearing based on race and race victimisation and is struck out for disability discrimination as no basis for the claim is provided.
60. Allegation 18 should proceed to a hearing based on race and race victimisation and is struck out for age as no basis for the claim is provided.
61. Allegation 19 should proceed to a hearing based on race and race victimisation and is struck out for age discrimination as no basis for the claim is provided.
62. Allegation 20 should proceed to a hearing based on race and race victimisation and is struck out for sex, age and disability as no basis for the claim is provided.
63. Allegation 21 is struck out as a victimisation claim. A date is provided but the claim is not specific in any material respect.
64. Allegation 22 is struck out as a disability claim as no basis for the claim is provided.
65. Allegation 23 is not a claim of victimisation and is struck out.
66. Allegation 24 should proceed to a hearing based on race and race victimisation and is struck out for age as no basis for the claims is provided.
67. Allegation 25 may be relevant to remedy but is struck out as a claim of harassment for the merits hearing as no basis for the claim is provided.
68. Allegation 26 is a narrative and not a separate claim and is struck out.
69. Allegation 27 should proceed to a hearing based on race and is struck out for sex and age as there is no basis for the latter claims.
70. Allegation 28 based on race victimisation should proceed to a hearing.
71. Allegation 29 based on race victimisation should proceed to a hearing.
72. Allegation 30 may be relevant to remedy but is not a claim for the merits hearing and is struck out.
73. Allegation 31 should proceed to a hearing based on race and is struck out for age as there is no basis for the latter claim.
74. Allegation 32 based on race victimisation should proceed to a hearing.
75. Allegation 33 based on race victimisation should proceed to a hearing.

76. Allegation 34 is struck out as there is no basis for a claim based on disability.
77. Allegation 35 should proceed to a hearing based on race and is struck out for sex, age and disability discrimination as there is no basis for the latter claims.
78. Allegation 36 should proceed to a hearing based on race.
79. Allegation 37 should proceed to a hearing based on race victimisation.
80. Allegation 38 is struck out, although it is an allegation of race discrimination, it does not affect the claimant and cannot sustain claims of sex and age discrimination.
81. Allegation 39 should proceed to a hearing based on race and is struck out for sex, age, disability and harassment as there is no basis for the latter claims.
82. Allegation 40 should proceed to a hearing based on race and race victimisation and is struck out for age discrimination as there is no basis for the latter claim.
83. Allegation 41 should proceed to a hearing based on race and race victimisation and is struck out for sex, age and disability discrimination as there is no basis for the latter claims.
84. Allegation 42 is narrative and is struck out as a claim based on discrimination.
85. Allegation 43 is struck out as a claim based on victimisation as there is no basis for the claim.
86. Allegation 44 should proceed to a hearing based on race victimisation.
87. Allegation 45 is a general summing up of the case and is unnecessary. The allegation is dismissed.
88. Allegation 46 should proceed to a hearing based on race victimisation.
89. Allegation 47 narrates contact with ACAS and is struck out as claims of disability discrimination and victimisation as there is no basis for the claims.
90. Allegation 48 is struck out as there is no basis for claims based on race, sex, age and disability discrimination and harassment except for "AOG shouted at me when I asked her a question." which should proceed to a hearing for race and race victimisation.
91. The Tribunal has used the shorthand race victimisation where the narrative should be that the claimant claims that the respondent subjected her to a detriment because she had done, intended to do, or was suspected of doing or intending to do a protected act. The scope of the claim is restricted to race.

92. The Tribunal did not consider that it should make a deposit order. The assessment of whether there was little prospect of success in the remaining claims depended on the evidence of the claimant which the Tribunal was not in a position to determine. In addition, standing her financial circumstances, a deposit order would, in effect, prevent the remaining claims going forward.

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**Employment Judge Truscott QC**

**Date 13 February 2019**