EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4122844/2018 Preliminary Hearing Held at Portree on 19 March 2019

Employment Judge: M A Macleod (sitting alone)

Mrs Clare Stones	Claimant In Person
Civil Nuclear Police Authority	Respondent Represented by Mr J Cavanagh QC Instructed by Ms A Rathbone Solicitor

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Employment Tribunal is:

1. That the claimant's claim of unfair dismissal is dismissed for want of jurisdiction;
2. That the claimant's application to amend her claim is refused.

REASONS

1. A Preliminary Hearing was fixed to take place on 19 and 20 March 2019, in Portree Sheriff Court, following previous case management discussions, in order to consider the extent and scope of the claims being presented by the claimant, and to determine future procedure in this case, including, if possible, the establishment of a list of issues.

2. The claimant appeared on her own behalf, and the respondent was represented by Mr J Cavanagh QC, instructed by Ms A Rathbone, solicitor.

3. Mr Cavanagh helpfully set out the respondent's position, at the outset. He said that even before the claimant presented her further and better particulars of the claim, attached to an email dated 31 January 2019, and of itself running to some 15 pages, the respondent was concerned to ensure that a face-to-face discussion could take place in which the claims set out in the ET1 should be more clearly defined, so as to enable a list of issues to be prepared.

4. He observed that the further and better particulars document does not have, at present, the status of pleadings, as no application to amend the claim had been advanced by the claimant. However, he confirmed that he intended to use this hearing to point out what may amount to new heads of claim, which should not be permitted to be added by way of amendment. In addition, he wished to go over the original claims, and the further particulars which have been added to them, in order to allow for further clarity between the parties as to the precise nature of those claims.

5. The claimant responded by saying that she had thought that she was asking for her further and better particulars to be included in the ET1, and therefore she understood that she had been seeking to apply to amend her claim by the introduction of this additional information.

6. That being understood, it was agreed that the Tribunal should proceed to hear both parties on these points in order to deal with the application to amend, and the further particularisation of the claims made.

7. Essentially, there were two parts to the hearing: firstly, the discussion about whether or not the claimant's application to amend should be allowed; and secondly, the discussion about the extent to which the further and better particulars provide the necessary specification of the claims made by the claimant to allow proper notice of those claims to be given to the respondent.

8. As a result, it is necessary for the Tribunal to address these two parts of the hearing in different ways. That part of the hearing which involved consideration of whether or not certain parts of the claim should be allowed to proceed requires properly to be dealt with by way of a Judgment, which may then be published on the Employment Tribunals Judgment website. However, that part which deals with the discussion of further particularisation of the claim, without an application being made by the respondent to exclude any part of the claim, should not be part of a Judgment which is to be published, and accordingly that will be dealt with in a separate Note.

9. In this Judgment, then, it is necessary to consider the submissions made by both parties in relation to the application to amend the claim by the claimant dated 31 January 2019.

Unfair Dismissal

10. Prior to dealing with that matter, however, it is necessary to address the jurisdictional point made by the respondent in relation to the claim of unfair dismissal made by the claimant.

11. The claimant understood that the respondent is seeking to argue that the claim for unfair dismissal which she seeks to advance is outwith the Tribunal's jurisdiction. She said that when she presented the claim, she did not realise that it would be barred by statute. She said that it was her understanding that CNC officers are considered to be employees, and referred to the case of **Civil Nuclear Police Federation v Civil Nuclear Police Authority & Another [2016] EWHC 2186 (Admin)** as authority for that proposition, a decision of the Queen's Bench Division of the High Court of Justice. That was a case, she said, in which the issue before the court related to the increase in the state pension age for CNC officers, and the court found that the officers were employees, as opposed to territorial police officers who are considered to be office holders.

12. Mr Cavanagh explained, for the respondent, that CNC officers are employees and are not office holders, but that that is not the reason why they are barred from claiming unfair dismissal.

13. In that High Court case, (in which Mr Cavanagh himself appeared), the issue concerned the disparity between the retirement age for territorial police officers (60), and that of CNC officers (68). The issue did not depend on whether they were employees or not.

14. Mr Cavanagh went on to say that historically CNC officers have been in a different pension scheme to territorial police officers. While the court referred to their employment status, that was not the central issue in the case.

15. Mr Cavanagh referred to section 200 of the Employment Rights Act 1996 (ERA), in which it is provided that the relevant part of ERA does not apply to a member of a constabulary maintained by virtue of an enactment. The CNC derives its existence from section 52 of the Energy Act 2004. He submitted that regardless of the general principle that police officers are unable to claim unfair dismissal, CNC officers are expressly excluded from that right.

16. The claimant acknowledged what the respondent was saying in relation to this, and noted that she had not understood the reason why the unfair dismissal claim was said to be statutorily barred. She simply confirmed that she considered this a matter for the Tribunal to decide.

Further and Better Particulars – New Claims

17. Mr Cavanagh presented a document to the Tribunal, entitled "Summary of New Allegations", a copy of which he provided to the claimant.

18. The Tribunal took time to hear both parties on each of the points made by the respondent.

19. Mr Cavanagh addressed the first point in the list of 6 allegations which he described as "wholly new": ***"The allegation that the requirement that***

CNC officers must be qualified as Authorised Firearms Officers (AFOs) is indirect disability, sex and/or maternity discrimination. See 'additional information' document, paragraphs 10, 13 and 24. This would be a fundamental challenge to the way that the Respondent operates."

20. Mr Cavanagh expanded upon this point. He said that the primary role of the respondent is to protect nuclear installations, and officers are routinely armed as they require to be deployable in the event of an incident. The general rule is that officers must be AFOs. If there is now to be a challenge on the basis that this AFO requirement is indirect discrimination, this is a root and branch challenge to the way in which the CNC operates. It would be necessary, in defending such a claim, to explain the fundamental way in which the organisation operates. He said that the respondent did not understand that this was a challenge being raised against them in the ET1. The respondent's position is that the AFO requirement was not the central issue once medical advice had been received to the effect that the claimant was unfit to carry out any role within the respondent's organisation. As he put it, if it is necessary for the respondent to fight the case on the basis of the AFO requirement, it "raises the stakes enormously".

21. In response, the claimant said that when she included the sex discrimination claim in the ET1, she could not expand upon it. She said that this is not necessarily a new allegation, but an attempt to expand the basis of the claim. She said she found it difficult to fit the allegations in the space provided in the online ET1 form. She accepted that this claim would amount to a fundamental challenge; she understood the need for AFO but what she wished to raise was the way in which this was enforced.

22. Mr Cavanagh submitted that in the ET1, there is quite a lot of material about the sex discrimination claim, but nothing which gives notice of a root and branch challenge to the AFO requirement.

23. The second point in the list of new allegations was: ***"The allegation that it is indirect sex or maternity discrimination to require officers who have lost AFO status to retrain to recover that status. Paragraph 14."***

24. Mr Cavanagh submitted that under the rule of the respondent, if an officer has not been trained as an AFO for some time it is necessary for them to retrain. In the claimant's case, he said, the last time she was an AFO was 2010, and in 2014 she was told that she would have to retrain as an AFO. This would require her to do rifle training at Bisley, Surrey, and there were discussions about whether or not that training could be accommodated at Dounreay. The outcome of those discussions was that it could not. Again, he said that there was nothing in the ET1 about this requirement, and therefore it amounts to a new allegation not previously raised.

25. The claimant responded by saying that her position was the same in relation to this point as it was to the first point. The manner in which the CNC seeks to conduct the training causes a lot of problems for women returning from maternity leave. She suggested that there was another CNC officer who "ended up in court" who had been able to do modular training in Dounreay, and that she herself had been told that she could do such training there.

26. The third point made by Mr Cavanagh was: ***"The allegation that it was unlawful disability discrimination for the Respondent, via its Chief Medical Officer, to decline to recommend that Ms Stones should be given ill-health retirement. Paragraph 12. This cannot in any event amount to disability discrimination."***

27. Mr Cavanagh said that if the allegation of disability discrimination in this paragraph was that the claimant was not successful in obtaining her pension by means of ill health retirement, that is a new claim and not one which was justiciable in the Employment Tribunal. It is not in dispute that had she been successful in her ill health retirement application, the claimant would still have left her employment with the respondent. The process followed is that the CMO (Chief Medical Officer) writes a report recommending ill health retirement to the UKAEA Pension scheme. In this

case, what the CMO said was that they had not been able to get to the bottom of the disability or the reasons for it so could not give a prognosis. In order to qualify for the scheme, it is necessary to be able to predict that the claimant would be unable to work until retirement age, and the CMO was unable to do that.

28. Mr Cavanagh went on to point out that the claimant had not included this claim within the ET1. It is not, in any event, within the jurisdiction of the Tribunal to challenge the decision of the Pension Scheme Trustees, when they are not the employer. It cannot amount to less favourable treatment on the grounds of disability since non-disabled employees are not eligible for ill health retirement.

29. The claimant responded by clarifying that this is not a separate head of claim being advanced in this case. It is about providing the complete picture of the Occupational Health advice given and the conflicting positions. The CNC Occupational Health department recommended that the claimant was not sufficiently unfit for ill health retirement but their advice was contradictory all the way along.

30. Mr Cavanagh observed that the key point is that there are two different tests applied as to whether or not the claimant satisfied the test for ill health retirement, and whether or not the claimant satisfied the test for a capability dismissal by the respondent. There is no inconsistency.

31. The fourth point made by the respondent was: ***"A number of entirely new allegations of victimisation. Paragraphs 65-74. No allegations of victimisation are made in the ET1."***

32. In paragraph 65, the claimant commences a set of allegations about Andy Brotherston, complaining that he subjected her to detriments because she had made complaints about the way in which she had been treated. No such claim, said Mr Cavanagh, was made in the ET1. A particular concern for the respondent is that Mr Brotherston was the claimant's line manager until 2015, and it would set a major task for the respondent to find the

evidence and investigate the issues in order to prepare to defend such a claim.

33. The claimant responded by saying that in 2012, she made an informal complaint about parental leave and pay, which caused her a great deal of stress. Following her return to work in 2014, she said she had to raise a grievance criticising the "shambolic" way in which her return to work was handled. She said that she has now seen correspondence in which sarcasm was used by managers to describe her, and derogatory language by this manager (Mr Brotherston). She made a complaint of discrimination in her grievance, presented in January 2015, and that grievance was upheld. He saw her as a troublemaker and wanted rid of her, she said.

34. Mr Cavanagh acknowledged that the claimant did refer to discrimination in her grievance.

35. The fifth point raised by Mr Cavanagh was: ***"A wholly new set of allegations relating to whistleblowing. 75-82. Again, no allegations of protected disclosure detriment were made in the ET1. So far as the DV vetting allegation is concerned, there is no suggestion by Ms Stones that she made a protected disclosure."***

36. Mr Cavanagh said that the allegations of whistleblowing are entirely new, were not included in the ET1, and do not fall within the ambit of an Equality Act claim. This "opens up broad vistas", from which a number of difficulties arise. Security vetting was not completed when the claimant was allowed back on site when returning to work, as it should have been, but this did not amount to a detriment to the claimant. There is in any event no suggestion of a protected disclosure having been made by her. The rest of the allegations under this heading related to the way in which she was treated, and no public interest is demonstrated. In any event, this is a claim which did not appear in the ET1, and is entirely new.

37. The claimant's response was that she was sent home from work with situational anxiety, and was unable to cope with the work situation at that time. She was suffering a detriment at the time, she said, but all these acts

are connected to the bigger picture of how her health had suffered. She had been very careful since returning to work, in keeping away from Facebook and other social media sites. It was problematic for her to gain access to the site, and she had to arrange for temporary passes. She said that her disclosure was that she had to have vetting completed in order to ensure that she could have full access to the site. She said that she did not disclose information at the time but she did disclose the consequences in the course of her grievance in January 2015, and also a later grievance in 2017. She accepted that this claim is not included in the ET1 "in these specific terms".

38. Sixth, the respondent raised the following issue: ***"Failure by the Respondent to recognise her as disabled. Paragraphs 7 and 16. In any event, this cannot amount to a breach of the disability discrimination provisions of the Equality Act 2010."***

39. Mr Cavanagh submitted that the claimant's complaint, that the respondent had not recognised her as disabled within the Employment Tribunal proceedings, does not amount to a basis for challenge. Whether the respondent agrees that she is a disabled person within the meaning of the Equality Act does not provide a basis for a claim under that Act. It is not, in any event, included in the claim form, and does not amount to a detriment, anyway.

40. The claimant accepted that this was "more to do with background" than a separate claim, though she believes that this goes to the heart of how she was treated.

41. Having addressed these points, Mr Cavanagh then raised the issue of time limits in respect of all of these claims. There are time limit issues with regard to the original claims contained within the ET1, but he accepted that these must await the full evidence at the merits hearing, and that these issues must be reserved until the full hearing.

42. However, with regard to the claims which the respondent argues are new claims, the assessment of time limits must be done separately. He said that

if they are out of time, the Tribunal must assess whether or not it would be just and equitable to permit them to proceed, or, in the case of the whistleblowing claim, whether it was not reasonably practicable for the claim to have been presented in time.

43. If the claimant was able to put in a claim on 22 November 2018, Mr Cavanagh submitted, there is no reason for the application of the just and equitable extension to allow the claims to be brought out of time. More than that, the respondent says that several of these claims concerned events which ended a long time ago, and therefore are considerably out of time.

44. Referring to the 6 points raised before me, Mr Cavanagh said that 1 and 2 are out of time because the claimant has not been in attendance at work since 2015, and since then the medical view has been that she is unfit to carry out any role. With regard to the AFO requirement, the medical evidence received by the respondent was that she was not fit to carry out any role for them, and therefore that claim is 3 years out of time.

45. Point 3 is not a separate head of claim.

46. Point 4 relates to events in 2014 and 2015 at the latest.

47. The same timescale applies to point 5, and the whistleblowing claim. She returned to work in January 2015, which is now 4 years ago, and therefore this claim is well out of time. It cannot be said, he argued, that it was not reasonably practicable for this claim to have been presented within the relevant timescale.

48. Overall, Mr Cavanagh submitted that it would not be just and equitable to require the respondent to be put to the very onerous task of defending the new claims when they are “so ancient according to the standards of the Employment Tribunal”.

49. The claimant responded. She said that while still working for the respondent, it was always her hope that she would continue to work for them. She did not wish to rock the boat. She said she complain via her

grievances, and did speak up about the issues she had, but they were not dealt with even though she was told they had been. Throughout the whole period, she said, she was suffering from stress as a result of everything which had occurred. She said that she may not have been able to think clearly enough about the consequences of delay. In the August of 2018, she said, she was dismissed and she was diagnosed with severe depression. On 2 October 2018 she gave birth to a baby, and "anyone who has a baby knows how demanding that is".

50. The claimant submitted that she completed the forms to the best of her ability. She accepted that she may have missed something, but that it was not deliberate. She recognised that some of these claims are old, but that she cannot say that these are separate from the dismissal. She maintained that had these events not taken place in 2012 and the battles and arguments not raged with herself caught in the middle, she was clear that she would have been able to return to the respondent's workplace as an AFO. Too many barriers were placed in her way to allow her to return to work.

51. The claimant confirmed that she had attempted to seek legal advice. Her membership of the Police Federation lapsed when she stopped paying her subscriptions.

52. With regard to her knowledge of Employment Tribunals, she said that "everyone has heard of Employment Tribunals", and that it is the kind of thing to be avoided at all costs, because it is a stressful process. She wanted to raise the matters internally and pursue them there rather than before an Employment Tribunal. She wanted an internal solution until her employment was terminated.

53. She concluded by arguing that if the old issues are not taken into account, then the Tribunal will not understand the whole case.

54. Mr Cavanagh helpfully confirmed that he did not consider it necessary to hear evidence from the claimant, and that her submission was sufficient to

allow the Tribunal to make a decision as to the exercise of its discretion. He assured the Tribunal that he would not have cross-examined the claimant.

55. He responded to the points made by the claimant. He said that there is a qualitative difference between the allegations in the ET1 and the new allegations presented. The claimant says she presented the ET1 to the best of her ability, but in his submission there was too much information rather than too little in the ET1. The claim form contained a lot of detail but none of it related to the new claims. In the 2015 grievance she referred to the sex discrimination aspects of the matter, so she was aware of the background legal protections.

56. Mr Cavanagh made the point that time does not stop running just because the claimant is still employed or mean that it is just and equitable to allow the other claims to proceed. It was more than 4 months after her dismissal that the further and better particulars were presented. There is nothing to show that it would not have been reasonably practicable for the claimant to have presented the whistleblowing claims from 2015.

57. He reiterated that the respondent would be placed in considerable difficulty in reconstructing evidence from 2015 and before.

The Relevant Law

58. Section 123(1) of the Equality Act 2010 provides:

"Proceedings on a complaint within section 120 may not be brought after the end of –

(a) the period of 3 months starting with the date of the act to which the complaint relates, or

(b) such other period as the employment tribunal thinks just and equitable."

59. Section 123(3) clarifies that:

"For the purposes of this section –

(a) conduct extending over a period is to be treated as done at the end of the period…"

60. Section 48 of the Employment Rights Act 1996 provides, under sub-section (1A), that a worker may present a complaint to the Employment Tribunal that he or she has been subjected to a detriment in contravention of section 47B. That is, as I understand it, what the claimant seeks, in part, to do here.

61. Section 48(3) provides, then:

"An employment tribunal shall not consider a complaint under this section unless it is presented –

(a) before the end of the period of three months beginning with the date of the act or failure to act to which the complaint relates or, where that act or failure is part of a series of similar acts or failures, the last of them, or

(b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months."

62. Section 48(4) states:

"For the purposes of subsection (3) –

(a) where an act extends over a period, the 'date of the act' means the last day of that period, and

(b) a deliberate failure to act shall be treated as done when it was decided on."

63. The case of **Selkent Bus Co Ltd v Moore [1996] ICR 836** is the source of helpful guidance to Tribunals in determining whether or not an application to amend should be granted in these circumstances. In particular, the nature of the amendment, the applicability of time limits and the timing and manner of the application are all to be considered.

Discussion and Decision

Unfair Dismissal

64. The first issue for determination is whether the Tribunal has jurisdiction to hear a claim of unfair dismissal from an officer employed by the respondent.

65. Mr Cavanagh referred the Tribunal to section 200 of ERA, in which it is provided that the unfair dismissal provisions of the Act do not apply to employment under a contract of employment in "police service or persons engaged in such service". Police service is then defined, in section 200(2)(a) as "service as a member of a constabulary maintained by virtue of an enactment".

66. I was then referred to section 52(1) of the Energy Act 2004, which provides:

"It shall be the function of the Police Authority to secure the maintenance of an efficient and effective constabulary, to be known as the Civil Nuclear Constabulary ('the Constabulary')."

67. The claimant was, in my judgment, employed under a contract of employment – and the respondent does not dispute that – but in police service as a member of a constabulary maintained by virtue of an enactment, namely section 52(1) of the Energy Act 2004.

68. Accordingly, the claimant's claim of unfair dismissal must fail and be dismissed for want of jurisdiction.

Application to Amend

69. Although the claimant has not expressly sought to apply to the Tribunal to amend her claim in writing prior to this hearing, she made that request before me. It was clear that the respondent was ready to deal with that request, and I am indebted to Mr Cavanagh for presenting the Note which he did, so that his position could be understood both by the Tribunal and by the claimant.

70. The discussion was helpful in that it was clarified by the claimant that the issues identified under points 3 and 6 of the respondent's Note were not in fact to be treated as separate heads of claim, but to be regarded as background material in the claims already pled.

71. It is necessary, then, to address the four remaining heads of claim which the further and better particulars seek to introduce to this claim. Prior to doing so, I make clear that the remaining parts of those further and better particulars are not excluded, and are dealt with in the separate Note which concerns that aspect of the case.

72. The new claims – and it was not seriously disputed by the claimant that each of these claims are new heads of claim not previously pled – are:

- A claim that the requirement that CNC officers must be qualified as AFOs amounts to indirect disability, sex and/or maternity discrimination;
- A claim that the requirement that CNC officers who have lost AFO status must retrain to recover that status amounts to indirect sex or maternity discrimination;
- A claim of victimisation on the grounds of sex and/or maternity; and
- A claim that the respondent subjected the claimant to a number of detriments in consequence of having made a protected disclosure or protected disclosures.

73. It is useful, at this stage, to consider these claims together. The circumstances surrounding the application are the same for each, though the time limits applicable may vary to some extent.

74. In **Selkent**, Mummery J confirmed that the nature of the application must be considered; the applicability of time limits must also be taken into account; and finally the Tribunal must consider the manner of the application.

75. In this case, the nature of the application is significant. The claimant seeks to add to the claim 4 separate new claims. They fall (apart from the whistleblowing claim, to which I will return) under the same heading as the claims presented in the ET1, but each turns on facts newly pled which were not pled in the ET1 itself.

76. The complaints relating to the requirement to be qualified as an AFO, and to retrain in the event that the officer has been absent from the workplace for some time, both relate to matters which were, or must be taken to have been, within the claimant's knowledge when she presented her claim initially in November 2018. The focus of the ET1, which does contain considerable detail as to the complaints the claimant wishes to advance, is in relation to the events leading to the claimant's dismissal in 2018. There is no hint that the claimant wishes to draw to the Tribunal's attention complaints relating to her return to work in 2015, and her AFO status relative to that period.

77. The claim of victimisation relate entirely to the claimant's assertion that following the raising of a discrimination complaint within an internal grievance, her superior officer Andy Brotherston acted to her detriment by blocking her career break application, as well as other matters. Andy Brotherston was the claimant's line manager until 2015, a point which the claimant does not refute. As a result, the claimant seeks to bring to the Tribunal complaints relating to 2015 at the latest.

78. In my judgment, the applications to amend, in relation to the Equality Act claims, are very significant, since they introduce serious allegations against individuals and against the system requiring AFO status of CNC officers which go much wider than the allegations already set out in the ET1.

79. With regard to the allegations of detriments suffered as a result of having made protected disclosures, these do amount to a new head of claim, not previously raised by her, and are significant, in that they relate to what she considers to have been unlawful treatment by the respondent as a consequence of having raised public interest disclosures. It is understood that the disclosure or disclosures were raised by early 2015, but it is not

clear when the detriments are alleged to have arisen from these disclosures, and there is a lack of clarify about the disclosures themselves.

80. This is a very significant complaint, which appears to relate to a period some 4 years before the further and better particulars were presented.

81. Next, then, it is appropriate to consider the applicability of time limits. The claim of whistleblowing requires to be presented within three months of the alleged detriment having been visited upon the claimant. In this case, while it is not clear exactly when the detriment is said to have arisen, the events pled relate to the claimant's grievance in 2015. These are, as Mr Cavanagh rightly put it, ancient matters. The Tribunal may be prepared to consider claims which are presented late but these complaints date from several years ago and as a result they are exceptionally late.

82. The Tribunal must consider whether it was not reasonably practicable for the claim to be presented in time. In my judgment, it cannot be said to have been not reasonably practicable for the claim to have been presented within three months of the alleged detriments. The claimant made clear that she chose not to take action, as she wanted to resolve matters internally. That may be so, but it does not render it impracticable for her to have presented the claim in time. It is clear that the claimant is an intelligent, resourceful individual, capable of presenting her claim to the Tribunal in a timely and logical manner, and in this case, it cannot be said that it was not reasonably practicable for her to have presented this claim in time.

83. With regard to the discrimination claims which the claimant seeks to add in the further and better particulars, the time limit may be the same but the test is different, namely whether the claims have been presented within such a time as the Tribunal considers to be just and equitable in all of the circumstances.

84. In my judgment, the claims have not been presented within such a time. It would not be just and equitable to allow these claims, dating back several years, to proceed. The Tribunal must consider the interests of both parties, and not just the claimant. I accept that the respondent would be faced with

an extremely onerous and difficult task in investigating and obtaining the evidence to defend claims of such antiquity, and also that the scope of those claims is considerably broader than the ET1 suggested they would be.

85. I accept that the exclusion of these claims means that the claimant is prejudiced to the extent that she loses the right to advance such claims, but in my judgment, her claims as set out in the ET1 remain, and the prejudice to the respondent of permitting these claims to proceed considerably outweighs the prejudice to the claimant of losing the right to proceed with them.

86. In light of these conclusions, it is my judgment that it is not in the interests of justice to allow the claimant's application to amend her claim to be granted, and therefore it is refused.

87. The claimant's remaining claims will now proceed to a hearing on the merits, following the further steps to be taken to particularise and clarify those existing claims which are set out in the accompanying Note.

Employment Judge: **Murdo MacLeod**
Date of Judgment: **02 April 2019**
Entered in Register: **05 April 2019**
and Copied to Parties