EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4103070/2019

Preliminary Hearing Held in Aberdeen on 16 December 2019

Employment Judge A Kemp

Mr L Morgan	**Claimant** **In person**
Clearwater Fire Limited	**First Respondent** **Represented by** **Ms F McKenzie** **HR Consultant**
Steve Richard Nickerson	**Second Respondent** **Represented by** **Ms F McKenzie** **HR Consultant**
Barry Lee Stanley	**Third Respondent** **Represented by** **Ms F McKenzie** **HR Consultant**
Andrew John Turl	**Fourth Respondent** **Represented by** **Ms F McKenzie** **HR Consultant**

E.T. Z4 (WR)

JUDGMENT

1. **The claims of indirect discrimination under section 19 and of victimisation under section 27 of the Equality Act 2010 are struck out under the terms of Rule 37 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.**

2. **The remaining claims made under that Act, being for discrimination arising out of disability under section 15, reasonable adjustments under sections 20 and 21 and harassment under section 26, together with the claim for constructive and unfair dismissal under sections 95 and 98 of the Employment Rights Act 1996 are not struck out and shall proceed to the Final Hearing already fixed.**

3. **The application to strike out the claims against the second to third respondents inclusive is refused.**

4. **The respondents' application for a deposit order is refused.**

REASONS

Introduction

1. This Preliminary Hearing was arranged to address issues of case management.

2. There have been two Preliminary Hearings held on 4 June and 25 July both 2019 before EJ Hosie, and one before me on 27 September 2019. Following on that latest hearing and orders made in the Note in relation to it, by email dated 10 October 2019, the claimant has provided some further particulars of his claims. The respondent has in reply sought a strike out under Rule 37, on the grounds that the response did not meet the terms of the order, but also

on the basis of the manner in which the claimant has conducted the claim, and on the argument that there were no reasonable prospects of success. The claimant has applied for an order for information under Rule 31.

Disabled person

3. The respondents do not accept that the claimant is a disabled person. The claimant has produced an additional report from his consultant which supports his argument, but the respondent does not accept it. That issue, together with the issue of when the respondent did know or ought reasonably to have known of any disability, remain for determination.

Strike out - submissions

4. The following is a basic summary of the submissions made by each party. For each claim I sought clarification initially from the claimant as to what his claim was for, and why, then secondly heard from Ms McKenzie on why she sought strike out of that, and thirdly from the claimant in answer. On occasion there were supplementary comments made by the parties.

5. The claimant has a claim for **constructive unfair dismissal** under sections 95 and 98 of the Employment Rights Act 1996. He resigned on 20 February 2019. He has attempted to argue that the last straw was an offer made in ACAS conciliation, which commenced on 22 January 2019. As was explained in the Note from the earlier hearing before me however, such discussions cannot be referred to in tribunal proceedings.

6. The claimant argued that there was a breach of the implied term by a series of events that he outlined in his further particulars, which led to a deterioration in his health, and included emails from the respondents which he referred to as “snide”.

7. Ms McKenzie argued that the claimant had not provided adequate notice in his response, and had not pled a sufficient case. Dismissal was denied by the first respondent against whom that claim lay, on the basis that the claimant had resigned.

8. The claimant alleges **discrimination arising out of disability** under section 15 of the 2010 Act. This was referred to in paragraphs 64, 78 and 79 of his further particulars. The claimant argued that he had given sufficient specification, and that all of the matters were inter-related.

9. Ms McKenzie argued that there had not been sufficient specification given to accord with the terms of the order. The claimant had initially refused to attend before occupational health, but latterly had done so leading to a report on 30 August 2018. They did not know what they were defending. The claim had no reasonable prospects of success. She also said that and further had conducted the case in an inappropriate manner. She referred to email messages from him referring to HR ladies having a “thick skin” in an email of 27 November 2019, and to an email of 11 December 2019 in which he referred to having garden tools, and offered “a spade to assist with the digging of a bigger hole you’ve dug for yourself”. She had been upset by such comments. Reference was further made to earlier incidents when the claimant had allegedly intimidated a former member of staff, and used racist and homophobic language, but those events, if they took place, pre-dated the present proceedings.

10. The claim of **indirect discrimination** under section 19 requires the identification of the provision, criterion or practice (PCP), or more than one PCP if that be the position, that the claimant alleges was applied to him by the respondent. The claimant in oral discussion confirmed that it was that he was required to work full time at the office of the respondent. He argued that as a disabled person that placed him at a disadvantage, sufficient to be in breach of that provision.

11. Ms McKenzie argued again that insufficient notice had been provided. Nor had there been specification of the disadvantage for disabled persons generally, or the claimant himself, such that the order had not been complied with and there were no reasonable prospects of success.

12. The claim as to **reasonable adjustments** under section 20 also requires the PCP to be identified, setting out separately the substantial disadvantage the PCP is said to create, and the steps that the claimant says should have been taken by the respondents in respect of the PCP. The claimant's further particulars had not directly addressed the PCP but reading the document as a whole the PCPs were (i) the removal of his laptop and access to emails, which created a substantial disadvantage as that prevented him from carrying out work, and (ii) the requirement to work full time at the respondent's premises, which created a substantial disadvantage for him given his disability. The steps that the claimant argued for were (i) allowing him to keep his laptop, and have access to emails and (ii) the carrying out of a stress risk assessment for him, then acting on the recommendations from that.

13. Ms McKenzie argued again that there had been a lack of the necessary specification and fair notice, and there were no reasonable prospects of success. She referred to the OH report that was obtained, from an occupational health physician Dr Kong from an external provider, which did not recommend any adjustments at that time. She argued that the respondent had done all that could be required of it.

14. In response the claimant argued that there was no follow up action after that report, and no more detailed examination of his circumstances. His condition should have been monitored, he argued. Ms McKenzie argued that that had been done.

15. The claim for **harassment** under section 26 was based on the series of incidents where a benefit or facility was removed from the claimant, continued with the response to his grievance which he claimed did not deal adequately with the points raised, including on appeal after his resignation and including

emails sent to him from the first respondent, and the other respondents as individuals. He argued that that violated his dignity, or created an intimidating, hostile, degrading, humiliating or offensive environment.

16. Ms McKenzie argued that there was inadequate specification and fair notice, and that there were no reasonable prospects of success. She sought the strike out of the claims against individuals on the same basis.

17. The claim for **victimisation** under section 27 can be pursued on the basis of a reaction by the respondent to an act of the claimant which is protected. The claimant confirmed that the protected act on which he founded was his grievance, raised on 27 September 2018. The detriment caused to the claimant for doing that protected act was said to include the response to the grievance, including the appeal decision which was intimated by mobile phone with no details of the issues raised or consideration of them, and emails sent by the respondents.

Law

18. A Tribunal is required to have regard to the overriding objective, which is found in the Rules at Schedule 1 to the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 which states as follows:

"2 **Overriding objective**

The overriding objective of these Rules is to enable Employment Tribunals to deal with cases fairly and justly. Dealing with a case fairly and justly includes, so far as practicable—

(a) ensuring that the parties are on an equal footing;

(b) dealing with cases in ways which are proportionate to the complexity and importance of the issues;

(c) avoiding unnecessary formality and seeking flexibility in the proceedings;

(d) avoiding delay, so far as compatible with proper consideration of the issues; and

(e) saving expense.

A Tribunal shall seek to give effect to the overriding objective in interpreting, or exercising any power given to it by, these Rules. The parties and their representatives shall assist the Tribunal to further the overriding objective and in particular shall co-operate generally with each other and with the Tribunal."

19. Rule 37 provides as follows:

"**37 Striking out**

(1) At any stage of 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) that it is scandalous or vexatious or has no reasonable prospect of success

(b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious

(c) for non-compliance with any of these Rules or with an order of the Tribunal,……."

20. The EAT held that the striking out process requires a two-stage test in ***HM Prison Service v Dolby [2003] IRLR 694***, and in ***Hassan v Tesco Stores Ltd UKEAT/0098/16***. 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. In ***Hassan*** Lady Wise stated that the second stage is important as it is 'a fundamental cross check to avoid the bringing to an end prematurely of a claim that may yet have merit' (paragraph 19).

21. As a general principle, discrimination cases should not be struck out except in the very clearest circumstances. In ***Anyanwu v South Bank Students' Union [2001] IRLR 305***, a race discrimination case heard in the House of Lords, Lord Steyn stated at paragraph 24:

> "For my part such vagaries in discrimination jurisprudence underline the importance of not striking out such claims as an abuse of the process except in the most obvious and plainest cases. Discrimination cases are generally fact-sensitive, and their proper determination is always vital in our pluralistic society. In this field perhaps more than any other the bias in favour of a claim being examined on the merits or demerits of its particular facts is a matter of high public interest."

22. Lord Hope of Craighead stated at paragraph 37:

> " … discrimination issues of the kind which have been raised in this case should as a general rule be decided only after hearing the evidence. The questions of law that have to be determined are often highly fact-sensitive. The risk of injustice is minimised if the answers to these questions are deferred until all the facts are out. The tribunal can then base its decision on its findings of fact rather than on assumptions as to what the claimant may be able to establish if given an opportunity to lead evidence."

23. Those comments have been held to apply equally to other similar claims, such as to public interest disclosure claims in ***Ezsias v North Glamorgan NHS Trust [2007] IRLR 603***. The Court of Appeal considered that such cases ought not, other than in exceptional circumstances, to be struck out on the ground that they have no reasonable prospect of success without hearing evidence and considering them on their merits (paragraphs 30–32). The following remarks were made at paragraph 29:

> “It seems to me that on any basis there is a crucial core of disputed facts in this case that is not susceptible to determination otherwise than by hearing and evaluating the evidence.”

24. In ***Lockley v East North East Homes Leeds UKEAT/511/10*** *it* was similarly suggested that a tribunal should be slow to strike out such cases because of the additional public interest in such matters. I consider that the same considerations arise in a claim of disability discrimination as made in the present case.

25. In ***Ukegheson v Haringey London Borough Council [2015] ICR 1285***, it was clarified that there are no formal categories where striking out is not permitted at all. It is therefore competent to strike out a case such as the present, and becomes an exercise of discretion.

26. That was made clear also in ***Ahir v British Airways plc [2017] EWCA Civ 1392***, in which Lord Justice Elias stated 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."

Discussion

27. The further particulars provided by the claimant did not set out with the degree of specification and particularity that had been sought from the terms of the Note, but the question that requires to be addressed in a strike out application is more complex than that. As the case law makes clear, there must be a two stage process, the first relating to whether or not there was a breach of the order, no reasonable prospects of success or otherwise under the Rule, and the second an issue of proportionality having regard to the terms of Rule 2.

28. I also take into account firstly that the claimant is acting for himself, and secondly that he argues that he is a disabled person under the 2010 Act. His argument that he is a disabled person has material support, not least from the respondents' own OH provider, and also from his consultant who has provided a clear report. Whilst the respondent is entitled to challenge whether or not the claimant is a disabled person under the Act, the indication from the written evidence provided is clearly to the effect that he is, and was at the material times.

29. That must all be balanced against the need to deal with cases fairly and justly, which applies equally to the respondent as to the claimant. Having regard to the terms of the rules, the case law, the pleadings and the submissions, I consider that the claimant has pled sufficient to refuse the application to strike out, and thus to permit the hearing of evidence, for his claims of (i) constructive and unfair dismissal (ii) reasonable adjustments and (iii) harassment. That is because there is sufficient found from a combination of the Claim Form and the further particulars provided on 10 October 2019, and the terms of the discussion before me as recorded above, to set out a statable claim and give the respondent fair notice of that. The pleadings are far from clear in some respects, but the standard required in order to strike out claims is a high one.

30. In so far as the claims of indirect discrimination and victimisation are concerned, I do not consider that there is not sufficient pled by the claimant to respond to the order, or to give fair notice to the respondent, and that there is no reasonable prospect of success for either claim. The pleadings do not give fair notice of the PCP and the respondent could fairly say that it did not have sufficient notice of the claim so as to be able to respond. The claim of indirect discrimination is different in kind to that of reasonable adjustments, with there being a potential defence available for the former claim. A respondent can seek to prove that any PCP was objectively justified. The claim appeared to me to be one that had no reasonable prospects of success. On the issue of proportionality it appeared to me significant that the claim for reasonable adjustments, where the claimant had identified the step he

considered was reasonable to have taken, did provide him with a potential remedy if he was able to establish that a PCP was applied to him in a manner that was discriminatory.

31. The victimisation claim was based on the grievance, that being the protected act, but what the detriment was said to have been because of that grievance was not identified. It became bound up with arguments over harassment. The claimant had not separated out those matters which were founded on for harassment, and those for victimisation, despite the terms of the Note and that there is a different legal basis for each claim. The matters claimed to have happened such as removal of email access did not happen after the grievance was lodged and cannot have been a detriment caused by that having been done. It proved not possible to identify a detriment caused by the grievance on which the claimant founded. The only matter he was able to refer to was the outcome decision, but that was required by his appeal being taken, and whilst he may argue that it was not appropriately considered or intimated to him, that does not I consider amount to a detriment for the purposes of a victimisation claim. I consider that it has no reasonable prospects of success.

32. I have therefore struck out the claims for indirect discrimination under section 19 of the 2010 Act, and for victimisation under section 27 of that Act, both as there has not been compliance with the order made following the preliminary hearing before me, and as they have I consider no reasonable prospects of success. In each case I consider it in accordance with Rule 2, and proportionate, to strike them out. I do so in light also of the fact that other claims made by the claimant are permitted to proceed, as was referred to specifically in respect of the section 19 claim.

33. I have not struck out the remaining claims, as I consider that the lack of full compliance with the terms of the order was not sufficient as to justify strike out of the claims, that having regard to the comments above and the identification of the issues set out below there is fair notice to the

respondents, and that the claims do not have no reasonable prospects of success.

34. In so far as the argument was made as to the conduct of proceedings is concerned, I do not consider that the emails founded upon are sufficient to justify such a step. I do not take account of alleged events before the proceedings commenced. I would however indicate to the claimant that his use of the language he did in those emails was not appropriate. Correspondence should always be conducted in a professional manner, given that these are Tribunal proceedings, and the terms of Rule 2 itself.

35. I do not consider that at this stage I am able to strike out the claims directed to the three named individuals. The allegations are that they each acted in a manner that constituted harassment. Whether or not that happened is disputed, but if what is alleged did happen there is a legal basis on which a tribunal might hold them to be liable separately from the first respondent. On that basis I do not consider that the claims can be struck out as laid against the second to fourth respondents.

Deposit order

36. Ms Mckenzie sought a deposit as an alternative to striking out. She had not given advance notice of that to the claimant or tribunal, but did so orally. Although she was to confirm that by email subsequently, no such email was produced. In any event for the reasons set out below, I have decided that it is not appropriate to make such an order for those claims that are not struck out.

37. Rule 39 provides as follows:

> "39 **Deposit orders**
> Where at a preliminary hearing (under Rule 53) the Tribunal considers that any specific allegation or argument in a claim or response has little

reasonable prospects of success, it may make an order requiring a party ("the paying party") to pay a deposit not exceeding £1,000 as a condition of continuing to advance that allegation or argument….."

38. The EAT has considered matters in ***Wright v Nipponkoa Insurance (Europe) Ltd UKEAT/0113/14,*** and ***Tree v South East Coastal Services Ambulance NHS Trust UKEAT/0043/17***, in the latter case the EAT summarised the law as follows:

"[19] This potential outcome led Simler J, in ***Hemdan v Ishmail [2017] ICR 486 EAT***, to characterise a Deposit Order as being "rather like a sword of Damocles hanging over the paying party" (para 10). She then went on to observe that "Such orders have the potential to restrict rights of access to a fair trial" (para 16). See, to similar effect, ***Sharma v New College Nottingham UKEAT/0287/11*** para 21, where The Honourable Mr Justice Wilkie referred to a Deposit Order being "potentially fatal" and thus comparable to a Strike-out Order.

[20] Where there is, thus, a risk that the making of a Deposit Order will result in the striking out of a claim, I can see that similar considerations will arise in the ET's exercise of its judicial discretion as for the making of a Strike-out Order under r 37(1), specifically, as to whether such an Order should be made given the factual disputes arising on the claim. The particular risks that can arise in this regard have been the subject of considerable appellate guidance in respect of discrimination claims, albeit in strike-out cases but potentially of relevance in respect of Deposit Orders for the reasons I have already referenced; see the well-known injunctions against the making out of Strike-out Orders in discrimination cases, as laid down, for example, in ***Anyanwu v South Bank Students' Union [2001] IRLR 305 HL*** per Lord Steyn at para 24 and per Lord Hope at para 37.

[21] In making these points, however, I bear in mind - as will an ET exercising its discretion in this regard - that the potential risk of a Deposit Order resulting in the summary disposal of a claim should be mitigated by the express requirement - see r 39(2) - that the ET shall

> "make reasonable enquiries into the paying party's ability to pay the deposit and have regard to any such information when deciding the amount of the deposit". An ET will, thus, need to show that it has taken into account the party's ability to pay and a Deposit Order should not be used as a backdoor means of striking out a claim, so as to prevent the party in question seeking justice at all; see ***Hemdan*** at para 11.
>
> [22] Although an ET will thus wish to proceed with caution before making a Deposit Order, it can be a legitimate course where it enables the ET to discourage the pursuit of claims identified as having little reasonable prospect of success at an early stage, thus avoiding unnecessary wasted time and resource on the part of the parties and, of course, by the ET itself.
>
> [23] Moreover, the broader scope for a Deposit Order - as compared to the striking out of a claim - gives the ET a wide discretion not restricted to considering purely legal questions: it is entitled to have regard to the likelihood of the party establishing the facts essential to their claim, not just the legal argument that would need to underpin it; see ***Wright*** at para 34.

39. The claimant has made allegations, the truth or otherwise of which has yet to be determined. Both sides have referred to alleged events, or to documents, but at this point no evidence on them has been led. The claimant has the onus of proof that there was a dismissal, and whether or not that succeeds depends on the findings as to what did, or did not, happen, and why that was. The claimant has the initial onus of proof for the discrimination claims but again whether he succeeds in setting up a prima facie case such that the onus is reversed, and then if so whether the respondents discharge that onus on them is dependent on the evidence that is heard.

40. The competing arguments are not ones that can be properly determined on the basis of pleadings or submission at a Preliminary Hearing simply because there is a large body of disputed fact and at this stage it cannot be said that

the claim has little reasonable prospects of success. That is not the same as saying that they have reasonable prospects of success, just that it is necessary to hear the evidence to determine the arguments made.

41. In all the circumstances I do not consider that making a deposit order is appropriate for the claims which I have not struck out, having regard to the terms of the Rules and the case law set out above.

42. Accordingly I have refused the application for a deposit order.

Order for information

43. The claimant sought an order for information. He did so under the terms of Rule 31.

44. That was discussed in detail during the hearing. Some of the request was set out in his particulars document. That in relation to the issue of reasonable adjustments was answered largely by the terms of the OH report referred to, on the basis of which the respondents accept that they made no adjustments. It appeared to me that it was in accordance with the overriding objective to grant the order sought to a more limited extent, as set out in the Orders below. When that was canvassed with Ms McKenzie she did not make a strong objection, although she said that the answers had already been given. I consider that it is appropriate to make an order for such information, and have done so below.

Schedule of Loss

45. I explained to the claimant what was required in a schedule of loss, together with the supporting documentation necessary for that. I proposed that he do so by 6 January 2020 to which he gave his consent. The respondent may provide a response to that by 13 January 2020, as set out in the orders below.

Issues

46. In light of the decisions made above, the issues to be determined at the Final Hearing are set out below. They are provided subject to any comment by either party before 4pm on 6 January 2020. I would add that although the respondent has not taken a point on timebar, it appears from the discussions held before me, and the manner in which matters developed, that that may be something that requires consideration as it goes to the jurisdiction of the tribunal.

47. The list of issues proposed is:

(i) Was the claimant dismissed by the first respondent under section 95(1)(c) of the Employment Rights Act 1996?

(ii) If so, was that dismissal unfair under section 98(4) of that Act.

(iii) Was the claimant a disabled person under section 6 of the Equality Act 2010?

(iv) If so, when did, or ought reasonably, the first respondent to have known of that?

(v) Did the first respondent treat the claimant less favourably because of something arising out of the claimant's disability under section 15 of the Equality Act 2010?

(vi) If so, has the first respondent shown that that was a proportionate means of achieving a legitimate aim?

(vii) Did the first respondent apply the provision, criterion or practice of either or both of (i) the removal of his laptop and access to emails, and (ii) the requirement to work full time at the respondent's premises, to the claimant?

(viii) If so, did that place the claimant at a substantial disadvantage in comparison with persons who are not disabled?

(ix) Was it a reasonable step for the first respondent to have instructed a stress risk assessment in relation to the claimant to ascertain what if any reasonable steps were required to be taken to avoid that disadvantage?

(x) Did the first respondent, and any of the second, third or fourth respondents as individuals, harass the claimant under section 26 of the Equality Act 2010?

(xi) Does the Tribunal not have jurisdiction in relation to any of the claims made and against any of the respondents under the Equality Act 2010 in light of the provisions of section 123 of that Act?

(xii) In the event that any claim succeeds, what remedy should be afforded to the claimant, and in that regard (a) what losses has he suffered or will suffer (b) should any award be reduced on account of his contribution (c) would a fair dismissal have resulted from a different procedure and (d) has the claimant mitigated his loss?

Other matters

48. Ms McKenzie had not received the Notice of the Final Hearing. She was shown that during the hearing before me and a further copy is to be sent to her by email. She may require to seek an adjournment of the Final Hearing and if so will do that by email with a copy to the claimant.

49. I raised with the claimant whether he may benefit from an aide memoire in giving his evidence. He confirmed that he would, and the respondent had not objection to that, but the claimant will provide a copy to Ms McKenzie prior to

the hearing and if any issue arises from that, that can be addressed at the start of the hearing.

50. I explained to the claimant how the hearing would progress, and about asking questions in cross examination which need not be leading ones, and what re-examination could cover (only those points raised in cross examination or by the tribunal). I explained about the evidence being final, and that following evidence being heard for both parties submissions were then made.

51. There were no other issues raised by the parties at this stage, but in the event that an issue does arise, that can be the subject of a separate application by email.

ORDERS

The Tribunal grants the following Orders under Rule 29 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, Schedule 1:

1. No later than 4pm on 6 January 2020 the claimant shall provide in writing, sent by email to the Tribunal with a copy to the respondent, a written statement with supporting documentation (a Schedule of Loss) setting out:-

(a) what the claimant seeks by way of remedy if the claim succeeds;

(b) whether the claimant was a member of an occupational pension scheme;

(c) how much is sought by way of compensation in respect of each complaint with a detailed explanation of how each sum is calculated;

(d) details of any benefits received;

(e) a summary of jobs applied for, details of any interviews attended or jobs obtained and details of any income whether from temporary, casual or permanent employment or self-employed work;

(f) details of any other efforts made by the claimant to mitigate (take reasonable steps to minimise) his loss.

2. In the event that the respondent does not accept that the claimant has mitigated his loss they shall give written notice of that, and the basis of their argument, together with any other comments that they wish to make on the Schedule of Loss, by 4pm on 20 December 2019.

3. The first respondent shall write to the claimant by 4pm on 13 January 2020 with the following information under Rule 31:

(i) The reason it removed his access to emails, and required the return of his laptop and keys for the first respondent's premises

(ii) What aim or aims doing so sought to achieve in each case

(iii) On what basis the act is alleged to be proportionate to the aim in each case

(iv) The reason it removed him from its pension provision, healthcare cover, and any arrangements as to sick pay (including any discretion over sick pay)

(v) What aim or aims doing so sought to achieve in each case

(vi) On what basis the act is alleged to be proportionate to the aim in each case

4. The claimant shall provide the respondents' representative with a copy of any aide memoire document he wishes to use at the Final Hearing no later than two working days prior to the first day of the Final Hearing.

IMPORTANT INFORMATION ABOUT ORDERS

1 You may make an application under Rule 29 for this Order to be varied, suspended or set aside. Your application should set out the reason why you say that the Order should be varied, suspended or set aside. **You must confirm when making the application that you have copied it to the other parties and notified them that they should provide the Tribunal with any objections to the application as soon as possible.**

2 If this order is not complied with, the Tribunal may make an Order under Rule 76(2) for expenses or preparation time against the party in default.

3 If this order is not complied with, the Tribunal may strike out the whole or part of the claim or response under Rule 37.

Employment Judge: **Ian McFatridge**
Date of Judgment: **20 December 2019**
Date sent to parties: **23 December 2019**