



EMPLOYMENT TRIBUNALS

Claimant: (1) Mrs K Buddie
(2) Mrs J Williams
(3) Mr A Doyle

Respondent: UNISON

Heard at: Exeter Magistrates Court **On:** 17 - 20 February 2020

Before: Employment Judge Sharp
Mrs B Currie
Mrs M Farley

Representation:

Claimant: Ms A Chute (Counsel)
Respondent: Mr S Cheetham QC (Counsel)

JUDGMENT

The unanimous judgment of the Tribunal is that:

1. The complaint presented by the Third Claimant of suffering a detriment due to making a public interest disclosure under s.48 of the Employment Rights Act 1996 was withdrawn and is dismissed;
2. The complaint presented by the Claimants of victimisation under s.27 of the Equality Act 2010 was withdrawn and is dismissed;
3. The complaint presented by the Claimants of direct age discrimination under s.13 of the Equality Act 2010 is not well founded and is dismissed;

4. The complaint presented by the First and Second Claimants of direct sex discrimination under s.13 of the Equality Act 2010 is not well founded and is dismissed.

REASONS

1. Oral reasons were provided to the parties at the end of the hearing. Written reasons were requested and are set out below.

Background and issues/the law

2. The Tribunal was asked to determine a number of claims that have been brought by the Claimants in respect of UNISON, a trade union of which they were members and branch officers (at the Royal Devon & Exeter hospital). On the first day of the hearing, the public interest disclosure claim brought by the Third Claimant was withdrawn and dismissed. On the final day of the hearing during submissions, the victimisation claim under Section 27 of the Equality Act 2010 claim brought by all three Claimants was withdrawn and dismissed by the Tribunal. That left two claims to be determined by the Tribunal under section 13 of the Equality Act 2010:
 - a. direct age discrimination brought by all three Claimants;
 - b. direct sex discrimination brought by the First and Second Claimants.
3. The chronology and list of characters were agreed by the parties prior to the hearing commencing. In summary, the branch of the Respondent based in the Royal Devon & Exeter hospital decided to appoint a part-time administration assistant to support the branch secretary, who at that time was the First Claimant. The role was based at the branch, but it was possible that the successful applicant would be offered additional hours to carry out a similar role at another branch in North Devon. Mr Foster-Burnell, the regional organiser for the South West region, took the lead in dealing with the work necessary to progress the recruitment – he says at the request of the branch; the Claimants say that he took over the process and effectively sidelined the branch and its committee. All three Claimants were union members of the Respondent, and branch officers.
4. The First and Second Claimants, along with others, applied for the role in May 2018. This meant that the First Claimant could not sit on the shortlisting or interview panel. The shortlisting panel comprised of the Third Claimant, Mr Foster-Burnell and Mr Maddocks. A fourth individual, Mr Horwood, attended the shortlisting panel as a development opportunity – there is a dispute over whether he was actually part of the panel and whether his marks were included in the shortlisting process. The Second Claimant was not shortlisted for interview; the First Claimant was

shortlisted, as were a number of other individuals of varied sex and age, including an individual the Tribunal will call Mr X, a younger male compared to the First and Second Claimants. Mr X is not named within this Judgment due to the allegations made against him which he has not been given an opportunity to defend, but his identity is known to the parties.

5. Before the selection day took place on 8 June 2018, Mr Foster-Burnell added a requirement for candidates to do a presentation, as well as undertake a timed test and interview. His position is that this was suggested at the shortlisting day by Mr Maddocks and was approved by the branch. Ms Trudie Martin, the branch secretary of the North Devon branch of the Respondent, was added to the interview panel at the behest of Mr Foster-Burnell; the Respondent says this was due to the removal of the First Claimant from the interview panel - a women was required under union policies to be on the panel and Mr Foster-Burnell forgot to take steps earlier to address this deficiency. The Claimants say that this was designed to put the First Claimant at a disadvantage and to help Mr Foster-Burnell achieve his goal of appointing Mr X to the role.
6. The selection panel consisted of the Third Claimant, Ms Martin, Mr Maddocks and Mr Foster-Burnell. Mr X was the highest scoring candidate of the five candidates. At the end of Mr X's interview, the Third Claimant asserted that Mr X had been cheating as he had no prior union or NHS experience and had used an iPad for his notes, to which he had referred during the interview. Mr Maddocks was also unhappy about how Mr X had conducted himself at the interview. Mr Foster-Burnell and Ms Martin disagreed. After debate, and Mr Foster-Burnell taking advice, the First Claimant was told that she had been unsuccessful and Mr X offered the role. The Third Claimant resigned from his role as union official (his resignation was not accepted by the branch) on 8 June 2018. The First Claimant in her role as branch secretary organised an urgent committee meeting where the branch refused to allow the appointment of Mr X to proceed. Ultimately, the process was re-run and Mr X was still the strongest candidate and appointed to the role.
7. On the same day as the interviews, the Third Claimant complained to Ms Kaye about the interview process. On 13 June 2018, Ms Martin complained to the region about the Third Claimant's conduct during the interview day; in essence, her complaint was that she believed the Third Claimant was adamant that the First Claimant should be appointed and was biased in her favour, making comments that he would score her higher than she warranted from her performance at the selection day as he knew her. Ms Martin believed that the Third Claimant was conspiring with the First Claimant to ensure that she got the role. Ms Palmer was appointed by the region as the investigation officer on 18 June 2018, and on 20 June 2018 the First Claimant complained about the investigation, before meeting Ms Palmer. The Second Claimant similarly complained about the process very shortly after Ms Palmer's appointment and felt that it was unreasonable that Ms Palmer had asked to meet the Claimants. In June 2018, Mr Foster-Burnell raised concerns about the conduct of financial matters at the branch by all three Claimants, as well as other

matters, and a Rule 1 investigation under union rules commenced. The three claimants were suspended as union members and officials by the national office of the Respondent in a letter dated 3 July 2018, a step described as standard when financial misconduct was being investigated. Mr Maddocks was not suspended, despite making a number of complaints about the interview process, including circulating material from social media referring to the “rape” of the branch.

8. The Claimants presented their claims to the Exeter Employment Tribunal – the First and Second Claimants on 21 August 2018 and the Third Claimant on 4 September 2018, having previously entered into ACAS early conciliation unsuccessfully. The Claimants are able to bring a claim about the suspension of their union membership under s.57 of the Equality Act 2010, while job applicants are able to present complaints under s.39 of the same Act. Allowing for the withdrawals made during the process of the hearing, the claims left for this Tribunal to determine are:

- a. Was the First Claimant, a woman, subjected to the less favourable treatment of not being appointed to the role of branch administrator and organiser on 8 June 2018 because of her sex (compared to how the Respondent treated Mr X, a male)?
- b. Was the Second Claimant, a woman, subjected to the less favourable treatment of not being shortlisted for the interview for the role of branch administrator in May 2018 because of her sex (compared to how the Respondent treated Mr X, a male)?
- c. Was the First Claimant, aged 58, subjected to the less favourable treatment of not being appointed to the role of branch administrator and organiser on 8 June 2018 because of her age (compared to how the Respondent treated Mr X, a younger person)?
- d. Was the Second Claimant, aged 61, subjected to the less favourable treatment of not being shortlisted for the interview for the role of branch administrator and organiser in May 2018 because of her age (compared to how the Respondent treated Mr X, a younger person)?
- e. Were all three Claimants, aged between 58 and 61, subjected to the less favourable treatment of having their union membership and roles suspended on 3 July 2018 because of their age (compared to how the Respondent treated Mr Maddocks, a person in his forties)?
- f. If direct age discrimination is found by the Tribunal, the Respondent may be able to rely on the statutory defence that the conduct was a proportionate means of achieving a legitimate aim.

9. The Tribunal was provided with a number of witness statements (including from those who did not appear at the hearing). It also heard oral evidence from:

- a. Each of the Claimants;
- b. Mr Jason Maddocks, a panelist who dealt with the shortlisting and interviewing of candidates for the role of Administration Assistant and

Part-Time Organiser at the Royal Devon and Exeter Branch of UNISON (who was also a branch officer);

- c. Mr Oliver Foster-Burnell, the Regional Organiser;
 - d. Ms Joanne Kaye, the Regional Secretary;
 - e. Ms Tania Palmer currently the Acting Regional Secretary of the Wales Office of UNISON but was Regional Manager of the South West Office at the time of the event.
10. Counsel submitted written submissions and amplified their submissions orally. The Tribunal will not set out in detail the submissions received as a result within these reasons.
11. The Tribunal declined to find facts where they were not required in order to determine the issues before it. It bore in mind the shifting burden of proof; the Claimants must show facts from which the Tribunal could find that there has been a breach of the Equality Act 2010 (in the absence of an explanation from the Respondent). It also, with the agreement of Counsel, applied the “*reason why*” test from *Shamoon v Chief Constable of the Royal Ulster Constabulary* 2003 ICR 337 HL in order to ensure that its findings were correct and consistent with all the evidence adduced.
12. Discrimination in and of itself is not necessarily unlawful under the Equality Act; an employer can decide to give a particular individual a job because they like that person or because they dislike another particular person. It is only discrimination linked to protected characteristics that is unlawful; this Tribunal can only deal with the claims that were brought to it, notwithstanding the Claimant’s feelings that the whole recruitment process was unfair. Unless the process is relevant to the discrimination claims, the Tribunal has no jurisdiction to pass judgement. The whole thrust of the Claimants’ case is that Mr Foster-Burnell wanted to give his alleged friend Mr X the job – that is not unlawful under the Equality Act; the question is whether the Claimants’ were discriminated against because of their protected characteristics. A mere difference between the Claimants and their chosen comparators is not enough to sustain a discrimination claim. There must be cogent evidence to shift the burden of proof to the Respondent.

Findings of facts

Direct age discrimination – the First Claimant

13. The Tribunal, having considered the well-established case law (particularly *Chief Constable of the West Yorkshire Police v Khan* 2001 ICR 1065 HL) on this point was content to proceed on the basis that not appointing somebody to a role could constitute less favourable treatment. It is different treatment that the Claimant might reasonably say that she would have preferred not to have happened, and it may be reasonable to complain about not being appointed to a role. Mr Cheatham QC for

the Respondent did not submit that such treatment was not capable of being less favourable treatment.

14. The key issue is whether the failure to appoint the First Claimant was because of her age. The Claimants' evidence in their totality was in the view of the Tribunal full of assertion and underpinned by very little actual evidence. The Claimants' dwelled on the age difference between the First Claimant and Mr X, but undermined their own argument by making the point repeatedly that they believed that Mr X was Mr Foster-Burnell's friend. Being the friend of somebody does not equate to unlawful discrimination under the Equality Act 2010. The fact that Mr X may be a younger person is a mere difference and does not constitute evidence of unlawful discrimination. The Tribunal did not make any finding about the relationship between Mr X and Mr Foster-Burnell – it was not necessary to determine the issues in this case for the reasons outlined previously.
15. The Tribunal considered the oral evidence of the Third Claimant, who was one of the members of the interview panel. He freely admitted to discriminating against people during the recruitment process on more than one protected characteristic, age and sex. This in the experience of the Tribunal is rare; normally, individuals deny discrimination fiercely. The Third Claimant in contrast was happy and relaxed in making his admissions of discrimination, despite his role as a senior union official at the branch. The Tribunal was not able to put much weight on his evidence. It concluded that it appeared the Third Claimant did not understand the meaning of the word "*discrimination*" within the Equality Act and his evidence was unpersuasive. It was relevant that the Third Claimant was not unbiased as not only was he a Claimant in his own right in these proceedings, but admitted that he did want the First Claimant to get the job. This admission is supported by the evidence that the Tribunal heard from Mr Foster-Burnell and Ms Martin's complaint about the Third Claimant's attitude on the selection day. The Third Claimant was an unconvincing witness and the Tribunal did not accept his evidence that he discriminated against two close associates due to their age or sex. Indeed, the evidence shows that the Third Claimant objected strongly to the appointment of Mr X (and the related lack of success by the First Claimant) so much that he not only asserted that Mr X must have been cheating, but by trying to resign from his union officer role. At the time, the Third Claimant made no reference to discrimination against either of the other two Claimants which he now freely admits.
16. The First Claimant's evidence was that she believed that the process itself was designed to render her unsuccessful. However, this was not a specific allegation of discrimination before the Tribunal and in its view the First Claimant accepted that her performance on the day was not good enough to get the job - she did not score the highest number of marks on the selection day.
17. The First Claimant pointed to the appointment of Ms Martin on the panel, the failure to tell her that she could use the internet while undertaking the timed test, the fact that the presentation became an element of the interview process and her general

belief that there was a conspiracy against her appointment by Mr Foster-Burnell in order to appoint Mr X as evidence that the process in some way was stacked against her.

18. The Tribunal also though, in contrast, heard the evidence about the standard recruitment process of the Respondent, particularly from Mr Foster-Burnell. We heard his oral evidence that the appointment of Ms Martin was because of the requirement to have a woman on the panel, something that was unchallenged by Ms Chute; in the industrial experience of this Tribunal, this was not an unusual policy for a Union to have. The explanation that Mr Foster-Burnell gave as to why he did not mention earlier that a woman had to be on the panel was that he made a mistake - he should have spotted this point earlier and did not. The Tribunal accepted this as credible, given Mr Foster-Burnell's explanation that he was very busy with other matters, including dealing with a project in the run up to this matter and the fact that this it was a branch appointment, not a regional role. The First Claimant admitted that she was not expressly told that she could not use the internet and the Tribunal received both written and oral evidence about the fact that there was a computer supplied connected to the internet to enable the task to be undertaken. We heard unchallenged evidence that the other candidates used the internet during the timed test.
19. In relation to the presentation, the First Claimant was in the same position as the other candidates. It is relevant that the selection panel themselves made no objection to the inclusion of a presentation within the process. It appears that the presentation itself was initially been proposed by Mr Maddocks due to the grade of the role (the evidence was that he pointed out roles at this grade generally required a presentation to be given as part of the selection process). The Tribunal was not satisfied that the criticisms made by the First Claimant of the process used was in any way, shape or form designed to block her appointment, and certainly had no relationship to her age.
20. The Tribunal considered the evidence of Mr Maddocks. His oral evidence was that he did not discriminate against the First Claimant due to her age or her sex. He was called by the Claimants to give evidence, not the Respondent, but in the judgment of the Tribunal he did not allow this to affect his evidence, which appeared to be honest and credible. Mr Maddocks was both on the shortlisting and interview panel and well placed to assist the Tribunal. He had concerns about Mr X's conduct and how he performed so well, but was clear that he had not discriminated against the First Claimant because of any protected characteristic – Mr Maddocks' evidence was that Mr X had higher marks, and this was why he was appointed.
21. The Tribunal also had the benefit of looking at the score sheets from the interview day for both the First Claimant and Mr X, the named comparator; it was evident that as the Claimant herself accepts, she simply did not perform as well as Mr X on the day. While the First Claimant may feel that due to her experience, she should have performed better or received higher marks, there is no evidence which in the view

of the Tribunal satisfies the first stage of the shifting burden of proof. The Tribunal considered the reason why the First Claimant was not appointed on the basis of the evidence before it. It concluded that the reason why she was not get appointed was because she did not have the highest score on the day of all the candidates; this had no connection to her age. All the candidates went through the same process and there were other candidates who were older persons who also did not get the job. There were no grounds to find in some way that these older candidates were subject of discrimination or disadvantaged due to their age. The Tribunal unanimously finds that this claim is not well-founded and should be dismissed.

Direct sex discrimination – the First Claimant

22. The same findings made by the Tribunal in relation to the age discrimination claim brought by the First Claimant in respect of the failure to appoint her to the role of branch administration and organiser apply with equal force to this claim. Where age is mentioned, the term “sex” should be read. There is no evidence on which the Tribunal could find that the First Claimant was not appointed to the role due to her sex, and the reason why she was not appointed was due to her performance during the selection day.

Direct age discrimination – the Second Claimant

23. The Tribunal repeats its reasoning set out in paragraph 13 above to support its view that failing to shortlist someone for a role could constitute less favourable treatment. It could be treatment that the Second Claimant might reasonably prefer not to have happened and may reasonably wish to complain about, and the contrary has not been argued by Counsel. The key question is whether the failure to shortlist the Second Claimant was because of her age.
24. The Second Claimant’s argument is that too rigid a matrix was used to score her application, compared to what she says should have happened. She says that the shortlisting panel should have been more flexible in its approach in applying the criteria to her. Again, this argument is undermined by the Second Claimant’s assertion that this was part of a plan to give the role to Mr X by Mr Foster-Burnell, as opposed to discrimination based on the Second Claimant’s own protected characteristics. The Tribunal however noted that the evidence showed that there was flexibility shown when considering the Second Claimant’s application. There was the oral evidence from Mr Foster-Burnell, who said that there was a discussion about this matter by the panel when marking the Second Applicant’s application. This was supported by the evidence from the Third Claimant, who talked about being guided, and Mr Maddocks’ witness statement dealing with the split between the shortlisting panel about the Second Claimant’s application. It is worth noting that both the Third Claimant and Mr Maddocks in their evidence talked about just letting the Second Claimant go through based on their knowledge of her, not the contents of her application – this suggests that the application in their view was weak.

25. The Tribunal also looked at the actual scores by not just the shortlisting panel but Mr Horwood, who was present as part of his development. The Tribunal does not need to determine whether Mr Horwood's scores actually counted. Mr Horwood was described by the Claimants' as a person who Mr Foster-Burnell controlled and could be relied upon by him to support his alleged manipulation of the process. Strikingly, Mr Horwood's scores for the Second Claimant's application overall were higher than the scores of the actual panel members as he found her strong in one criteria; hardly the actions of a person acting as part of the alleged plan by Mr Foster-Burnell to remove the Second Claimant from the process. The official panel members all ended up giving the Second Claimant the same marks - she was found to be weak in 50% of the selection criteria and competent in the remainder. Mr Foster-Burnell's own scores were in fact reduced after discussion by the panel; initially he gave the Second Claimant a higher score than the Third Claimant or Mr Maddocks. Neither the Third Claimant nor Mr Maddocks found the Second Claimant to be strong in any area. This completely undermines the argument that the Second Claimant was subjected in some way to less favourable treatment as part of a manipulation by Mr Foster-Burnell to have her removed from the process as he and Mr Horwood were her strongest supporters.
26. In addition, the Tribunal received evidence that it was normal to apply selection criteria (which is consistent with its own industrial experience) and noted that the national form used for this process made it clear what had to be done in order to pass through the shortlisting process. We noted that the Third Claimant in his own evidence accepted that the Second Claimant did not meet the selection criteria if judged by her application. Her application was weak in parts and consistently found to be so by all of the panel members. While the Third Claimant in his witness statement took the view that the Second Claimant's application should have progressed due to what he personally knew about her, that is not how that a fair and transparent application process is undertaken. It is reasonable to consider the contents of the application form and the information within that, not the information that you possess because you know the candidate is internal.
27. The Tribunal also considered the argument that was raised by the Claimants' that Mr Foster-Burnell made a negative reference to the Second Claimant's mental health as part of the shortlisting process. This is a point relevant to a disability claim, not age or sex. It had no bearing to the issues before the Tribunal. However, the Tribunal preferred Mr Foster-Burnell's evidence to that of the Third Claimant. We have already set out that we found the Third Claimant to be an unpersuasive witness, but critically Mr Maddocks in his own witness statement, did not make a reference to any such comment.
28. The Tribunal found that the Second Claimant failed to pass the first stage of the shifting burden of proof. There was no evidence on which we would be able to find a breach of the Equality Act had occurred. Applying the reason why test, the reason why the Second Claimant did not get through the shortlisting stage was because her application form reasonably attracted a lower score than that of the other

candidates. The Tribunal noted the unchallenged evidence that there was a range of ages attributed to the other candidates. This claim was unanimously found not to be well-founded and is dismissed.

Direct sex discrimination – the Second Claimant

29. The same findings made by the Tribunal in relation to the age discrimination claim brought by the Second Claimant in respect of the failure to shortlist her for interview apply with equal force to this claim. Where age is mentioned, the term “sex” should be read. There is no evidence on which the Tribunal could find that the Second Claimant was not shortlisted due to her sex, and the reason why she was not appointed was due to her scoring following analysis of her application by the panel compared to the other candidates, including women such as the First Claimant.

Direct age discrimination – all three Claimants

30. The Tribunal repeats its reasoning set out in paragraph 13 above to support its view that suspending union members could constitute less favourable treatment and be treatment of which they might reasonably complain. The question is whether the suspensions happen due to the Claimant’s age or persons in their fifties or sixties?
31. The majority of the allegations made against the Claimants set out in the suspension letters were not allegations that according to the evidence heard by the Tribunal would be worthy of suspension. Ms Kaye in her oral evidence clearly articulated the point that allegations of a financial misconduct or of bullying and harassment could lead to suspension; in cases of financial allegations, suspension was automatic. This is the position of the Claimants, who say that Mr Foster-Burnell fabricated financial allegations in order to ensure their suspension to prevent investigations into the appointment of Mr X.
32. The chosen comparator of the Claimants is Mr Maddocks, who raised many complaints about what happened in the recruitment process and was not suspended. Mr Maddocks is in his forties. However, in the Judgment of the Tribunal, Mr Maddox is not a suitable comparator as he never faced any allegations in relation to financial misconduct. This is a material difference and therefore the comparison with him fails.
33. The claim before the Tribunal is not about Mr Foster-Burnell, but the decision to suspend the Claimant. There have been recent developments in the case law which are relevant. The position, broadly speaking, was that if the decision-maker had an innocent mind, there could be no negative finding. The case law has now developed, particularly in the whistleblowing and unfair dismissal arena. Discrimination and whistleblowing claims can be developed together and the recent Supreme Court case of *Royal Mail Group v Jhuti* [2019] UKSC 55 supports a view that the reason operating in the mind of the individual who had engineered the conduct complained of could be imputed to the respondent, even though the decision-maker was

unaware of it. This was raised with the parties' representatives during submissions and neither objected to this concept. Ultimately, it was not necessary for the Tribunal to grapple with this principle as the facts found did not support the Claimants' case.

34. On the face of it, the financial concerns raised by Mr Foster-Burnell about the payment of honorariums to the First and Second Claimants, processed without any payment for tax by the Third Claimant appear to be the reason for suspension. This decision was not made at a regional level; the unchallenged evidence, supported by the suspension letter itself from Ms Bickerstaff from the national office, is that decision was made centrally by the Respondent. Ms Bickerstaff and others from the national office would appear to have had innocent minds – Ms Chute has not suggested that they intended to discriminate against the Claimants due to their age. Her argument is that the suspensions were achieved through the raising of false allegations by Mr Foster-Burnell for discriminatory reasons.
35. Ms Chute's argument only arose during submissions. As Mr Cheatham QC pointed out on behalf of the Respondent, this point was not put "fairly and squarely" to Mr Foster-Burnell during cross-examination. The Tribunal accepts the view that one should not look at these matters mechanistically or be too pedantic, but it is a matter of fairness. As the case of *Jesudason v Alder Hey Children's NHS Foundation Trust* [2020] EWCA Civ 73, cited by Mr Cheatham, reminds us, it would not be fair to find discrimination on this basis unless there was very cogent evidence elsewhere that could support such a finding.
36. The Tribunal considered Mr Foster-Burnell and his motivations for making the financial allegations about the Claimants. His evidence was that if a branch was in trouble, it was standard procedure to check the finances. As a matter of logic, that is sensible, but there was evidence before the Tribunal that this branch in particular had a history of financial difficulties. A previous Treasurer had misused branch money and it had not been paid back. The branch was clearly in difficulties given the allegations flying around about the various officers and Mr Foster-Burnell. Mr Maddock's own emails of complaint indicate that there was a feeling that members were not being supported. The Tribunal accepted Mr Foster-Burnell's explanation as to why he looked at the financial records.
37. The Rule 1 process was used to investigate the allegations made against the Claimants, not the complaints the Claimants had made against the Respondent. The investigation officer appears from the contents of the hearing bundle to have relied on the oral assertions of the Claimants that the meeting authorising the payment of honorariums was quorate; there was no objective evidence proving that it was - the bundle only confirms the officers who attended the meeting, not the wider membership. Mr Foster-Burnell was not in attendance at that meeting. It is also clear from both the investigation officer's report and the wider evidence that the tax rules for the payment of honorariums was not followed; no tax was paid due to the processing of the payments by the Third Claimant. Such a failure may be innocent, such as inexperience or difficulties with the system, but it is the type of failure that

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needs to be investigated. The Tribunal also received unchallenged evidence that the Respondent's audit team later found that there were issues with payment of the honorariums and required repayment.

38. In the view of the Tribunal, there was sufficient evidence to justify the questions being asked concerning possible financial misconduct by the Claimants. It did not find very cogent evidence supporting a finding that Mr Foster-Burnell had made false allegations of financial misconduct in order to gain the automatic suspension of the Claimants, or that any such action was for discriminatory reasons because of the Claimants' age. The Claimants have failed to show facts that meet the first stage of the shifting burden of proof. The reason why they were suspended was because of reasonable concerns raised about financial matters affecting the branch requiring investigation. The Tribunal finds unanimously that this claim is not well-founded and is dismissed.

Employment Judge C Sharp

Dated: 2 March 2020

Judgment sent to parties: 4 March 2020

FOR THE EMPLOYMENT TRIBUNALS

NOTE:

This is a written record of the Tribunal's decision. Reasons for this decision were given orally at the hearing. Written reasons are not provided unless (a) a party asks for them at the hearing itself or (b) a party makes a written request for them within 14 days of the date on which this written record is sent to the parties. This information is provided in compliance with Rule 62(3) of the Tribunal's Rules of Procedure 2013.