# EMPLOYMENT TRIBUNALS

**Claimant:** Mr M Master

**Respondent:** Springfield Fuels Limited

**Heard at:** Manchester **On:** 7,8,9,10,11 and 14 December 2020.

**Before:** Employment Judge Leach; Ms A. Berkeley-Hill; Mr M.Smith

**REPRESENTATION:**

**Claimant:** In person
**Respondent:** Ms K. Barry, Counsel

**JUDGMENT** having been sent to the parties on 6 January 2021 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

# REASONS

**Introduction**

1. The claimant makes complaints of discrimination against the respondent and also claims that he was constructively dismissed by the respondent.

2. The respondent is in the nuclear power sector. It is part of a group of companies called Westinghouse. Its main site (where the claimant was based) is near Preston in Lancashire where it employs about 900 people ("the Site").

3. The claimant worked for the respondent from February 1991 until 28 February 2018, a total of 28 years of continuous service. The claimant left the respondent's employment on voluntary redundancy terms and received a voluntary redundancy payment of just over £70,000. The claimant has claimed that he opted to take voluntary redundancy terms because of the treatment that he had been subjected to at work. He has claimed that the voluntary redundancy effectively amounted to a constructive dismissal. The claimant has also claimed that he suffered direct

discrimination because of his race and/or his religion or belief. The claimant explained that he relies on the protected characteristic of race as defined in section 9 of the Equality Act 2010 because of colour, and the protected characteristic of religion or belief under section 10 of the Equality Act 2010 because of his Muslim faith.

## The Hearing

4. This was an "in person" hearing. All witnesses attended to give evidence with the exception of Simon Johnson, who was required to self-isolate due to the Covid 19 Pandemic and therefore attended by CVP.

5. We thank all those attending for their compliance with the social distancing requirements during the Pandemic.

6. The claimant represented himself and attended in person throughout the hearing. The respondent was represented by Ms Barry of counsel, who also attended in person throughout.

7. The Tribunal was provided with copies of all statements and a bundle of documents which we read through on the morning of the first day. References to our page numbers in this Judgment are to the bundle.

## The Issues

8. The complaints and issues were clarified at the preliminary hearing (case management) in October 2019 and then more recently updated by the respondent as the claimant had, by then, withdrawn his claims of disability discrimination and age discrimination.

***CONSTRUCTIVE DISMISSAL***

*Claimant's constructive dismissal allegations*

*1. In 2014 Ian Grant made a false allegation in a performance management agreement, that the Claimant had breached his employment contract, and tried to dupe him into signing it.*

*2. Between May and July 2015, the Claimant's union subscription was not deducted from his wages despite the Claimant being paid wages during these months. The Claimant had to reimburse the union himself in November 2015.*

*3. In October 2015 the Claimant's planning job was terminated.*

*4. In October/November 2015 the Claimant's flexible working stopped.*

*5. The Claimant was subject to a performance management agreement on 15 June 2017 in which Andy Musgrove and Sam Cottam removed six skills from the Claimant's recorded skill set, which prohibited him from doing different jobs.*

*6. In late 2017 the Claimant and an apprentice were exposed to asbestos in the work place and the Respondent did not provide them with protection nor did they investigate the incident.*

*7. False allegations were made about the Claimant's use of a fork lift truck in December 2017.*

*8. In December 2017, Gail Beauchamp from Human Resources made a false allegation to occupational health about the Claimant's control of a fork lift truck.*

*9. In December 2017, despite the occupational health doctor confirming that the Claimant was fit to drive a fork lift truck, he was still banned from doing so by Gail Beauchamp.*

*10. The Respondent instigated disciplinary proceedings in regard to the fork lift truck incident by way of a letter dated 18 January 2018.*

*11. On 18 January 2018 the Respondent drafted a letter to the Claimant, which was not received until 20 February 2018, which did not accept that the grievance he had submitted was resolved.*

*12. In February 2018 the Claimant looked at the personnel directory on the email address book and noted his position was that of Labourer and not Team Worker.*

*Voluntary severance*

*13. The Claimant received "voluntary severance" (in the sum of 130 week's pay) which the Claimant says he accepted after his resignation. This issue will require to be considered in light of the claims. It may affect whether or not there was a dismissal and may be relevant as to compensation (for each of the claims).*

*Constructive dismissal*

*14. Was the Claimant dismissed, i.e.:*

*(a) was there a fundamental breach of the contract of employment, in that did the Respondent breach the so-called 'trust and confidence term', i.e. did it, without reasonable and proper cause, conduct itself in a manner calculated or likely to destroy or seriously to damage the relationship of trust and confidence between it and the Claimant?*

*(b) if so, did the Claimant affirm the contract of employment before resigning?*

*(c) if not, did the Claimant resign in response to the respondent's conduct (to put it another way, was it a reason for the Claimant's resignation – it need not be the reason for the resignation)?*

*15. If the Claimant was dismissed, the Respondent accepts that there is no fair reason to dismiss.*

***DISCRIMINATION***

*Claimant's discrimination allegations*

*16. In September 2017 Gary Preston told Steve Chippendale to stop being racist in the rest room and Steve Chippendale's behaviour amounts to direct race discrimination and/or harassment.*

*17. The Claimant is Muslim and contends that stopping the flexible working that accommodated his attendance at Friday prayers in December 2015 was discrimination on the grounds of religion or belief.*

*18. The Claimant contends that refusing his application for flexible working for attendance at Friday prayer on 18 March 2016 and 11 April 2016 was discrimination on the grounds of his religion or belief.*

*19. That on an unspecified date, Steve Chippendale stated that "we live in a Christian country who has given you permission to go and pray during working hours". The claimant contends that this amounted to discrimination on the grounds of the claimant's religion or belief.*

*20. On various unspecified dates Steve Chippendale, a Welder, made derogatory comments about the claimant's health and ability to work which the Claimant contends he did because of the Claimant's ethnicity and would not have done so to a white person and the same amounts to direct race discrimination and/or harassment. Specifically, on 28 February 2018 Steve Chippendale ordered a cake which said "Good Fookin Riddance!" to celebrate the fact that the Claimant was leaving work.*

*21. There was a failure by Tim Berry, the Line Manager to deal with Steve Chippendale because he was friends and went cycling with him and the same amounts to direct race discrimination and/or harassment.*

*22. That a referral to prevent Anti-Terrorist Police post-employment amounts to religion or belief discrimination contrary to section 108 of the Equality Act 2010 (albeit the Respondent argues this was done after the claimant had resigned).*

*Time limits / limitation issues*

*23. The Respondent contends that the discrimination claims are out of time and this requires to be determined at the Hearing. The claimant should ensure evidence is led as to the reason why the claims were lodged when they were and why it is just and equitable to extend the time limit, if they were lodged late and any evidence that shows there was a continuing act extending over a period of time.*

*24. Were all of the Claimant's discrimination complaints presented within the time limits set out in sections 123(1)(a) & (b) of the Equality Act 2010? Dealing with this issue may involve consideration of subsidiary issues including: whether there was [an act and/or conduct extending over a period, and/or a series of similar acts or failures; whether it was not reasonably practicable for a complaint to be presented within the primary time limit; whether time should be extended on a "just and equitable" basis; when the treatment complained about occurred.*

*25. Given the date the claim form was presented and the dates of early conciliation, any complaint about something that happened before 8 February 2018 is potentially out of time, so that the Tribunal may not have jurisdiction to deal with it.*

*Direct race discrimination and racial harassment*

*26. Has the Respondent subjected the Claimant to the alleged treatment above?*

*27. Was that treatment "less favourable treatment", i.e. did the Respondent treat the Claimant as alleged less favourably than it treated or would have treated others ("comparators") in not materially different circumstances? The Claimant relies on hypothetical comparators.*

*28. If so, was this because of the Claimant's race, namely that he was black?*

*29. Does the alleged treatment also amount to unlawful racial harassment?*

*Direct religion and belief discrimination*

*30. Has the Respondent subjected the Claimant to the alleged treatment above?*

*31. Was that treatment "less favourable treatment", i.e. did the Respondent treat the Claimant as alleged less favourably than it treated or would have treated others ("comparators") in not materially different circumstances? The claimant relies on hypothetical comparators.*

*32. If so, was this because of the Claimant's religion, namely Islam?*

***REMEDY***

*Unfair dismissal*

*33. While the Claimant had ticked the box at paragraph 9.1 of the ET1 stating he sought reinstatement, the Claimant confirmed that if the Claimant was unfairly dismissed he seeks compensation only:*

*a. if the dismissal was procedurally unfair, what adjustment, if any, should be made to any compensatory award to reflect the possibility that the claimant would still have been dismissed had a fair and reasonable procedure been followed / have been dismissed in time anyway? See: Polkey v AE Dayton Services Ltd [1987] UKHL 8;*

*b. would it be just and equitable to reduce the amount of the Claimant's basic award because of any blameworthy or culpable conduct before the dismissal, pursuant to ERA section 122(2); and if so to what extent?*

*c. did the Claimant, by blameworthy or culpable actions, cause or contribute to dismissal to any extent; and if so, by what proportion, if at all, would it be just and equitable to reduce the amount of any compensatory award, pursuant to ERA section 123(6)?*

*Discrimination*

*34. If the Claimant succeeds, in whole or part, the Tribunal will be concerned with issues of remedy and in particular, if the Claimant is awarded compensation and/or damages, will decide how much should be awarded.*

9. At the beginning of the hearing we raised with the parties the cut off date for time limit purposes (see 25 above). Initially the List of issues had recorded 8 March 2018 as the cut- off date. t was agreed that the correct date was 8 February 2018.

## Case Management

10. It is important that we note some of the case management steps taken.

11. In the claim form, only two allegations of race and/or religion or belief discrimination were detailed. The first of these is an allegation that the respondent had reported the claimant to Prevent (the anti-terrorism strategy in operation in the UK). We refer to this as "the Prevent allegation." The second allegation relates to a cake which the claimant alleges was given to him on his resignation which bore the message "good fookin riddance." We refer to this as "the Cake allegation".

12. For various reasons, a case management hearing did not take place until September 2019 with a further case management hearing in October 2019. A Schedule of Issues was provided following the second of these hearings, and the List of Issues for the final hearing (as noted above) reflects this. Specific allegations

were added at that case management stage and set out because the claimant had made an application to amend to add to the allegations. The Judge's case management note also included the following direction to the parties:

> *"We discussed the issues to be determined by the Tribunal. They are summarised below. The parties should consider this list carefully to make sure that it accurately records such matters. If not the Tribunal and the other party must be notified promptly."*

13. Neither party contacted the Tribunal to alter or add to the list.

14. Although directions had been given for the exchange of witness statements, the parties did not exchange statements until late November 2020 and this followed another case management hearing on 10 November 2020. It is clear from the note of this case management hearing that the Judge explained in full and clear terms to the claimant the purpose of witness statements and what should be in his statement. The Judge also required the respondent to provide the claimant with a document setting out/reminding him of all of the issues in order that he may use that as a guide when drafting his witness statement.

15. We note the directions and assistance in relation to witness statements, because the claimant's statement is lacking in detail. For example, it does not mention at all the Cake allegation and it became clear when the claimant gave his evidence and when he was asking questions of the respondent's witnesses that he considered that there were other instances of unfair or discriminatory behaviour. No other allegations had been made and we decided and explained to the claimant during the hearing that it would not be fair and just to allow the claimant to raise further complaints and to expect the respondent to be able to respond immediately to those complaints.

**Strike out of the Constructive Dismissal Claim**

16. On the morning of day two Ms Barry, on behalf of the respondent, applied to strike out the claimant's claim for unfair dismissal. The application for strike out was made pursuant to rule 37(1)(a) of the Employment Tribunals Rules of Procedure, on the basis that the unfair dismissal claim had no reasonable prospects of success.

17. In his claim form the claimant stated this:

> *"I was put under immense pressure and stress and after all that nothing was resolved. Even though I had wanted to continue in working I felt I had no alternative but to resign."*

18. At the preliminary hearing (case management) in September 2019 it was clear that this claim was a constructive dismissal claim. In correspondence subsequent to that case management hearing that was the wording used by the claimant when describing his claim.

19. In his evidence provided on the afternoon of day 1 of this final hearing, the claimant denied that he had been constructively dismissed, claiming instead that he had been actually dismissed by the respondent.

20. We took careful account of the fact that the claimant is unrepresented. We considered whether, because of this, it might be a matter of an inadequate pleading in the claim. We did not see it in that way. The pleading is very clear. The claimant stated very clearly what his case was and maintained that position through case management.

21. In considering the strike out application, we also took account of the fact that we had by then heard evidence that the claimant had been a member of a trade union recognised by the respondent and had been able to obtain legal advice either through the union or from another appropriate source.

22. On the afternoon of day one, right at the start of his evidence, the claimant accepted that he had actually been dismissed. Clearly on the undisputed facts as they were at that stage, the actual dismissal arose during a voluntary redundancy exercise. The respondent's position is that the potentially fair reason of redundancy applied. The claimant stepped forward and volunteered. The claimant says he did so because he was unhappy about events that had taken place at work, but unhappiness with employment would not be unusual for candidates for voluntary redundancy.

23. Our decision, reached on day 2 was that the claimant's claim of unfair dismissal had no reasonable prospects of success. The claimant that had been brought (a constructive dismissal claim) was a hopeless claim. An alternative claim that the actual dismissal was unfair also had no reasonable prospects of success. The reason for dismissal was redundancy resulting from an extensive voluntary redundancy exercise.

24. As we explained to the claimant, we make a clear distinction between the long list of issues with which the claimant was unhappy that he says gave rise to his decision to resign/accept voluntary redundancy terms and those separate matters that he claims amount to unlawful discrimination. Our decision to strike out the unfair dismissal claim did not affect the outcome of the discrimination claims which we went on to hear and determine.

25. Whilst we reached our decision to strike out the unfair dismissal claim on the basis noted above, the claimant was also informed about the provisions of section 123(7) of the Employment Rights Act 1996.

26. In this case the claimant had declined to provide a full Schedule of Loss on the basis that he did not know how to calculate it. The claimant had provided an email dated 19 December 2019 (page 260) in which he stated as such and then went on to provide some details of the amount he had been paid a month during employment with the respondent, how much he had received (on a net basis) by way of a redundancy payment and noting that he wanted to claim (without quantifying) loss of earnings and loss of pension.

27. The claimant received an enhanced redundancy payment well in excess of the basic and compensatory award that he could have recovered in relation to the unfair dismissal claim. Even if we had decided that there was some reasonable prospect of his unfair dismissal claim succeeding, and then went on to decide that the claimant succeeded in that unfair dismissal claim, the requirements of section 123(7) of the Employment Rights Act 1996 would have reduced (to nil, having regard to the claimant's annual salary) the amount of any award for unfair dismissal.

## Findings of Fact

28. Our findings of fact as set out below, are limited to those facts that are relevant to the surviving discrimination claims.

29. We have had to make findings of fact dating back many years in some areas, and we note evidential difficulties in relation to certain of these.

30. There was a complaint of discriminatory conduct extending over a period of time for the purposes of section 123(3)(a) of the Equality Act 2010, and it was appropriate therefore to consider and make findings of fact in relation to all allegations in order to then determine whether there was such discriminatory conduct extending over a period of time.

The claimant's employment with the respondent

31. The claimant was employed in one of the respondent's workshops at the Site. His job title on starting work there in 1991 was "General Worker." In the years before his dismissal, the claimant's job title and role was Engineering Team Worker which required him to carry out tasks in support of the fabricating and welding activities in the workshop.

The claimant's requests for flexible working and the cessation of those arrangements in late 2015

32. The claimant and the respondent witnesses were asked for their account of events in relation to this issue from many years ago. We find that some of this evidence was unreliable and our findings rely significantly on the written evidence that we have. This effectively supports the respondent's version of events. We find as follows.

33. In 2014 the claimant spoke with Mr Musgrave, the Workshop Manager, to inform him that he was struggling to deal with some family issues. His father was ill and being cared for by his wife, his wife could not drive but was learning, and the claimant asked for some flexibility on a temporary basis so that he could help drop his children off and pick them up from school. Mr Musgrave agreed to helping the claimant on a temporary basis.

34. We note here that Mr Musgrave impressed us as a witness. His evidence informed us that he is a responsible and caring manager. This informal arrangement was supportive of a junior colleague.

35. Mr Musgrave allowed the flexibility to continue but some 12 months later spoke to the claimant to say that the informal arrangements needed to come to an end. However, he did inform the claimant that he could make a formal flexible working request if he wanted to. The impression we have is that the claimant had used this offer of flexibility frequently, and we also note that it came at a time when the claimant's absence levels were high. We have no criticism of Mr Musgrave's decision to draw the informal arrangement to a close.

36. We do not find that the informal arrangement in 2014 and 2015 relating at all to the claimant wishing to take part in Friday prayers (see below). There is no mention of this in email correspondence in 2014 or 2015. We do not accept the

claimant's evidence that he spoke about Friday prayers in 2014 a week or so after he had spoken and obtained Mr Musgrave's agreement for some flexibility with start and finish times. We have expressed our view of Mr Musgrave, having heard his evidence. We are clear that had Friday prayers been mentioned in 2014, Mr Musgrave would have dealt with the request in the same responsible and understanding way that we find he dealt with other matters.

Claimant's request for flexible working to accommodate Friday prayers in February/March 2016

37. On 22 February 2016 the claimant sent an email to Mrs Beauchamp who is a member of the respondent's HR team. The email was also sent to Mr Musgrave and others. The claimant asked that he be allowed an extra 25 minutes lunch break on Fridays so that he could attend Friday prayers. We find that this is the claimant's first request for flexibility to accommodate additional time to enable the claimant to attend Friday prayers. The request was considered over the following two days by the HR team and the claimant's line management. It is also clear from an email of 24 February 2016 from the claimant's supervisor, Mr Cotton (page 100) that he spoke directly with the claimant about the request.

38. Mr Musgrave became more involved in dealing with the request, and he proposed the claimant make up the time by starting 25 minutes earlier on Fridays when he should work in another workshop as the claimant's workshop was not open that early in the day. Mr Musgrave emailed the claimant with this potential solution and asked for his thoughts. Mr Musgrave also spoke directly with the managers in the other workshop and they were in agreement with the proposal.

39. The claimant did not respond to Mr Musgrave. When asked about this in cross examination he answered that he had badgered Mr Musgrave but that he was fobbed off on at least three occasions by him. Our finding is that this did not happen. Mr Musgrave put in place the means for the claimant to have an additional 25 minutes off for Friday prayers by starting work 25 minutes earlier on Fridays. The claimant did not respond further to Mr Musgrave. Ideally, perhaps, Mr Musgrave might have chased the claimant, but we note Mr Musgrave is a manager with responsibility for the whole workshop. The claimant was asked to reply to Mr Musgrave and he did not.

Alleged comment made by Mr Chippendale that, "We live in a Christian country. Who has given you permission to go and pray during working hours?"

40. It is relevant to note that we did not hear evidence from Mr Chippendale, who was a former colleague of the claimant. The claimant and Mr Chippendale worked together for some 25 years, a quarter of a century. They worked alongside each other for much of that time in the respondent's workshop. Mr Chippendale was a welder based in the same workshop as the claimant.

41. The claimant did not accept when it was put to him in questions that Mr Chippendale and the claimant were friends. They did not socialise outside of the workplace. The claimant accepted he did share food sometimes with Mr Chippendale within the workplace. The claimant explained that Mr Chippendale considered himself a bit of a cook and enjoyed tasting the food that the claimant would bring into work.

42. Mr Chippendale, like the claimant, no longer works for the respondent. He also accepted voluntary redundancy terms in 2018, leaving a little later than the claimant. Mr Chippendale's last day of employment was in June 2018.

43. A number of issues between the claimant and Mr Chippendale featured in the claim and at the hearing, but in relation to this alleged specific comment we note as follows.

44. The claimant was not sure about when Mr Chippendale directed the comment to him. Initially he said it was 2016 and then on being questioned considered it was probably 2014. It appears to have been made in response to the claimant turning up late for work on a Friday afternoon. Mr Chippendale appears to have made a brusque comment to the claimant because he was late.

45. There are many occasions when the term "we live in a Christian country" could not be considered as offensive. Here, if that comment was made at all, on balance it was made in response to the claimant telling Mr Chippendale he had taken time off work in order to attend Friday prayers. It may have been a comment, indicating a view (an inaccurate one, given that the working week of many employees ensures time off on Sundays) that Christians are not given time off to worship in this country so why should the claimant as a Muslim. The claimant did not complain about the comment at the time, in fact the first mention of this complaint was not even on the issue of the claim, it was made in April 2019 when the claimant applied to amend his claim.

46. We find either that the comment was not made or that the claimant was not offended by it. However the comment was long ago and we express our reservations about making a finding of fact from the evidence that we have.

<u>The claimant's complaint in August 2017 about racist comments</u>

47. On 23 August 2017 the claimant emailed Mr Barry raising a number of concerns or complaints. The email is at pages 112-113. These concerns centred around the claimant's recent absences and medical conditions. Whilst we have not seen a full history of the claimant's attendance or absences we have been informed, and we find, that the claimant had taken some 250 days of absence over a rolling four year period and had some 45 medical appointments over a 14 month period. Comments appear to have been made by the claimant's colleagues, and the claimant complained about these and a breach of confidentiality. It is clear, and the claimant accepted on being questioned, that the vast majority of this email related to complaints connected to the claimant's medical conditions and his alleged disability.

48. However, there was one point of the email relevant to the claim of race discrimination, where the claimant states as follows:

> *"The member of staff who made these comments has on a number of occasions made references to my absences and his unsavoury and racist comments are well known amongst staff members."*

49. Although the claimant did not name the person either in this email or (as we note below), in subsequent internal meetings, his evidence to us was that this was a reference to Mr Chippendale.

50. Mr Berry, who was at the time Mr Musgrave's manager, responded to this email on 24 August 2017 to say the concerns would be investigated and invited the claimant to contact him in the meantime. The email is prompt and supportive and gave notice of the next step.

51. The claimant then received a letter dated 11 September 2017 from the respondent's HR department inviting him to a meeting. The meeting was specifically to discuss the allegation of racist comments. The meeting took place on 22 September 2017 (notes of the meeting are at page 115). Our findings about the meeting are as follows:

(1) The claimant was provided with an opportunity to attend the meeting with a union representative and declined to do so. He had plenty of time to make these arrangements had he wanted to;

(2) The claimant declined to name names, to say who it was that was making racist and unsavoury comments;

(3) The claimant did not provide any detail about what comments were made;

(4) The claimant's evidence to us was that it would have been obvious to those in attendance that it was Mr Chippendale. The respondent's witnesses here deny that. We do not find that it was obvious to those in attendance who the claimant was talking about; neither do we think it would have been appropriate to guess or infer an identity in such a serious matter.

52. The claimant was then asked to sign a short statement as confirmation of what he said. The claimant has been critical of this statement in his evidence and was also critical shortly after the meeting (see his email of 22 September 2017 at page 116).

53. We find that this statement was drafted in good faith by Ms Beauchamp at or immediately following the discussion, and that it accurately records what the claimant said at the meeting but with one exception: that the claimant asked that the issues raised by him be dealt with informally by providing guidance about religion and race equality issues in staff briefings.

54. The claimant gave evidence that he felt pressurised into signing the statement, that the atmosphere of the meeting was oppressive and he just wanted it to finish, so he signed in order that he could leave. We do not find this to be the case. We find that the statement was signed willingly and is an accurate record with the one exception that we have noted.

55. Following the meeting the guidance the claimant had asked about was provided to members of the respondent's workforce and the claimant was complimentary of this training.

<u>Findings relating to "the cake"</u>

56. Mr Chippendale brought a cake into work on the claimant's last day. The claimant's evidence was Mr Chippendale told him that he had ordered the cake from Booths grocers. There was a message on the cake: "Good fookin riddance".

57. Mr Cotton was Mr Chippendale and the claimant's supervisor. Mr Cotton gave evidence at the Tribunal and his evidence was that the cake was a shared joke for a number of people who were leaving work from the engineering department and workshop areas. It became clear from his responses to questions and from the claimant's own evidence that in fact the claimant was the only person leaving the department on or around 28 February 2018. Mr Chippendale was also going to leave but not until June 2018.

58. We find that the cake was brought into work by Mr Chippendale specifically for the claimant's leaving date. We have not heard from Mr Chippendale. The claimant received the cake on or around his last day at work and shared it with his colleagues.

59. There is no documentary evidence or evidence in pleadings or witness statements that the claimant raised a complaint about the cake. The claimant was asked questions by Ms Barry about he Cake allegation and did not then mention that he had raised a complaint. On the afternoon of day 3 of the hearing, the claimant was asking Mrs Beauchamp questions. In her evidence Mrs Beauchamp noted that the first time she had learned of the Cake allegation was after the claimant had left (which we find to have been a reference to the claim form in these proceedings). At this stage of the hearing the claimant said that this was not true and that he had made a complaint to the respondent's HR team on the same day that he was given the cake. He said that he met with Linda Salisbury. Although this was new information, Mrs Beauchamp was willing to respond, noting that Linda Salisbury was a pensions specialist and would not have dealt with a workplace complaint such as this.

60. We make the following findings having taken everything into account:

(1) The cake was not intended by Mr Chippendale to be offensive. He bought it for his colleague's leaving day. He had worked with that colleague for some 25 years.

(2) The message was a clumsy attempt at humour. It had nothing to do with the claimant's race or religion.

(3) The claimant was not offended by it at the time. He did not raise a complaint.

(4) The claimant did not mention the allegations at all in his witness statement. Had he been genuinely offended by the cake, he would not have overlooked it.

<u>Findings relating to the respondent's decision and actions of reporting concerns about the claimant</u>

61. The respondent reported the claimant to the respondent's regulator, the Office for Nuclear Regulation ("ONR"). It is not clear what date this report was made, as there is no written report. There is no email, no paperwork at all in relation to this

report. We find that it was made in a day in January 2018. We note here our surprise that not a single document was generated from this referral, not even an email to ONR containing the name and address details of the claimant.

62. In December 2017 Mr Berry had concerns about the claimant's behaviour. The claimant was submitting a lot of reports, called "near miss reports". The claimant was sending these directly to Mr Berry even though that was not the process. Mr Berry was also aware of an incident involving the unsafe use of a forklift truck which happened at the end of September 2017. As far as Mr Berry was concerned, there was clear evidence that the claimant was the driver of the forklift truck at the relevant time. Initially the claimant had claimed that he could not recall driving the forklift truck but then on returning from a period of sickness absence changed his behaviour to deny that he drove the forklift truck.

63. On 13 December 2017 the claimant refused to attend a meeting to discuss the concerns he had expressed about the meeting held to discuss racist comments (the 22 September meeting - already referred to at paragraph 51 above). Also on or shortly before 13 December 2017, a workshop meeting took place in order to discuss one of the near miss reports submitted by the claimant. The claimant had behaved out of character at this meeting, shouting and pointing his finger at colleagues. This behaviour was out of character. It was confirmed in an email to the claimant dated 14 December 2017

64. On 21 December 2017 Mr Berry met with the claimant and a trade union representative, when the claimant denied that he was driving the forklift truck.

65. Mr Berry had significant involvement, therefore, in these issues with the claimant, and was concerned that relations between the claimant and line management was breaking down. Mr Berry emailed the claimant on 3 January 2018 to inform him that he should not drive the forklift truck. Mr Berry's email included the following comment

> *I have concerns that you were driving the fork lift truck and I note your refusal to acknowledge this, I also note the breakdown in trust that has now developed with your line management, Due to the breakdown in trust I am no longer confident that should any FLT event occur whilst you were driving would be reported in an open / honest way. I therefore at this point will not authorise you to recommence FLT driving.*
>
> *You can appeal against this decision. If you wish to appeal then please let me know and I can arrange for the appeal into my decision to be heard.*
>
> *Regarding accusations that you have made by email regarding most recently myself and also Andy Musgrave and Gail Beauchamp. Human resources will be arranging a meeting for this to be discussed.*
>
> (The reference to "accusations" was to an unresolved complaint that the claimant had about his treatment at the meeting on 22 September 2017 – see 62 above.)

66. At around the same time that these events took place, Mr Berry went to see Mr Cotton. No-one has provided a date of this meeting. We find that it was at the

very end of 2017 or very beginning of 2018. Mr Berry recognised that he had a difficult management issue. The claimant, a longstanding member of staff, was in dispute and relations with him were fraught. His refusal to attend meetings, his denial of operating the forklift truck on a day when there appeared to be evidence that he was using it, his submission of multiple "near miss" reports, were all disruptive. Mr Berry was struggling to decide how best to deal with this difficult management issue, and wanted to discuss the claimant with Mr Cotton, the claimant's supervisor.

67. We find that Mr Berry was not, immediately prior to his meeting and discussion with Mr Cotton, contemplating reporting the claimant to security. He was handling a difficult management issue. It was the additional information that he received during his meeting with Mr Cotton that pointed him in the direction of security.

The information that was received by Mr Berry from Mr Cotton

68. We find the following information was provided:

(1) That Mr Cotton reported to Mr Berry that someone had mentioned to him that the claimant had made a comment along the lines of "*British troops in the Middle East deserved to die"* (we refer to this as the "British troops comment")*;*

(2) Mr Cotton reported that the claimant had become more religious;

(3) Mr Cotton reported that the claimant had changed and that he had behaved more aggressively. This was a reference to the meeting referred to in the letter of 14 December 2017. Mr Berry was already aware of that incident: he was the author of that letter.

69. The new information, therefore, provided by Mr Cotton to Mr Berry was (1) the alleged British troops comment and (2) the comment about the claimant becoming more religious.

70. At the Tribunal Mr Cotton was questioned about the British troops comment. He was unable to tell the Tribunal who had reported to him that the claimant had made that comment. He was unable to say when that comment had been made or provide any other detail. It is clear that no action was taken by Mr Cotton or anyone else in response to the claimant allegedly making that comment, at least until Mr Berry came to discuss the claimant with Mr Cotton. It was a rumour from an unknown source that was allowed to persist and circulate and was now being passed up the management chain.

Mr Berry's report to Mr Johnson (Head of Security)

71. As already noted, we have not seen any documentary evidence of this report. Mr Berry's evidence, which we accept, was that this was the first such report made by Mr Berry, and Mr Johnson's evidence was that ultimately it was the first time that he had made an external security report to ONR.

72. Mr Berry reported the claimant as a potential security risk once he and Mr Cotton had considered the line manager's guidance, which we had at page 268.

When deciding whether to make a report to security both Mr Berry and Mr Cotton were also aware of an email reminder sent round to line managers on an annual basis.

73. The respondent has not been able to provide a copy of the email sent round in 2017 and has provided an example from 2016 and a further example in 2019. We find that such an email was sent annually and so a version will have been sent in 2017 with wording on the same or very similar basis to that provided in December 2016 – which we note below:-

> *This email is a reminder of your responsibilities as a line manager to personnel in the UK, please be aware this is a regulatory requirement:-*
>
> *Line manager responsibilities*
>
> *Effective personnel security is dependent on the support of line managers. Line managers are responsible for:*
>
> *A. maintaining the standards of security expect.*
>
> *B. briefing the post holder about the protection of assets and processes under their control.*
>
> *C. following the guidance published in the line managers guide (found on elements under security)*
>
> *D. Notifying the Personnel Security Team of any concerns surrounding the ongoing honesty, integrity and values of those whom they manage (including contractors).*
>
> *As a line manager if you have any concerns please report them immediately to the Security Department … .*

74. We also note the following extracts from the line Managers Guide referred to in the email:

> *"The following are examples of areas of concern that should be posted to Security Department:*
>
> - *Expressions of interest for extremist views, actions or incidents, particularly when violence is advocated.*
>
> *……..*
>
> - *Sudden loss of interest in work or overreaction or prolonged response to career changes or disappointments.*
>
> *……*
>
> - *Signs of stress such as excessively emotional behaviour.*
>
> *……*

- *Sudden or marked change of religious, political or social affiliation or practice that has an adverse impact on the individual's performance of their job or attitude to security."*

75. We accept the evidence from Mr Berry and Mr Cotton that they were reminded about security concerns through these emails and that they had regard to the emails and Line managers Guide when making a referral.

76. We find that the decision made by Mr Berry to report the claimant to the respondent's Head of Security was due to the totality of concerns that Mr Berry had, including the information provided by Mr Cotton that Mr Berry had not previously known about. We note a key part of Mr Berry's concerns was as expressed in his witness statement when reporting what colleagues, particularly Mr Cotton, had said, as follows:

> "*Mo* [the claimant] *had changed. They said that recently he had become a lot more outspoken, that he would say British troops in the Middle East deserved to die. He would be quite vocal about Allah whereas before Allah was rarely mentioned, and he was prepared to voice opinions whereas before he would be quite quiet about things*."

77. We accept Mr Berry's evidence that it was a difficult decision for him. His report was made, by reference to the line manager's guidance, straight to security. It was a report of a security concern not an HR concern and therefore did not involve HR. The claimant has said that Mr Berry should have had an informal discussion, or someone should have had an informal discussion about the issues. However we note that at the point that Mr Berry was contemplating the report an informal discussion would have taken Mr Berry outside of the instructions in the email.

78. There was a difference between the evidence of Mr Johnson and Mr Berry as to the manner of reporting. Mr Johnson believed that he spoke with Mr Berry on the phone; Mr Berry's clear evidence is that he came to see Mr Johnson in person. We prefer Mr Berry's evidence. As noted, this was a difficult decision for Mr Berry, who sat in an open plan office. Mr Berry's clear recollection is that he met with Mr Johnson in person, and that is our finding.

79. Neither Mr Johnson nor Mr Berry kept any note of their discussion.

<u>Mr Johnson's actions on receipt of the information</u>

80. Mr Johnson received the information from Mr Berry and Mr Johnson's evidence is as follows:

> *"Mr Berry told me he was concerned by Mr Master's behaviour. He explained he had worked with Mr Master for many years and that recently, at times in the canteen, Mr Master had started to say things that suggested that he held extreme Islamic views."*

81. We have made our findings about Mr Berry. He had more reasons than this for reporting the claimant to the Head of Security, however the key issue as far as Mr Johnson was concerned was the rumour about comments made by the claimant which indicated holding extreme views.

82. We find the only example of such a comment was the British troops comment. Mr Johnson also received the additional information from Mr Berry, including comments that the claimant had become more religious and that he had mentioned Allah more frequently than he used to. Other information provided by Mr Berry, particularly the claimant's behaviour in meetings, the near miss reports, was filtered out by Mr Johnson. The key points were:

(1) The claimant had become more religious; and

(2) The rumour about the British troops comment.

83. Mr Johnson made the decision that he should not involve the police straightaway. Instead he decided that he should make a report to the respondent's external regulator the Office for Nuclear Regulation ("ONR"). He did this in January 2018 and did so for two reasons:

(1) To obtain advice from the regulator, particularly about whether he was doing the right thing in not reporting the matter directly to the police, or whether the information should be passed to the police; and

(2) Because he did not know what to do with the information himself internally. Mr Johnson decided that he could not simply sit on the information and as he was effectively at the top of the chain from an internal security point of view, his actions ensured that he "*covered his back."*

84. We note that no attempts were made internally to obtain any further information, either before or after reporting matters to ONR.

85. We have no information about what advice was provided by ONR, if any, other than the evidence from Mr Johnson that he was instructed to provide the claimant's details.

86. Whilst we accept that Mr Johnson did not take the more serious course of action of reporting the concerns directly to the police, we find that the decision was otherwise little more than a kneejerk reaction to being presented with unsubstantiated allegation about an employee making an extremist comment and information about the same employee displaying behaviour of greater religious observance. There is no suggestion that the information provided by Mr Johnson to ONR was qualified with caution about the rumour being unsubstantiated and from an unknown source. There is no suggestion that ONR was informed that the claimant had worked with the respondent without any such issues for some 27 years.

87. We note here that the claimant has denied having made the British troops comment. Based on the evidence we have, we find that the comment was not made by the claimant.

<u>Events following Mr Johnson's report to ONR</u>

88. The claimant was visited by Prevent in May 2018 (we provide some further details of this below). In his evidence Mr Johnson notes that he was surprised that the ONR had involved Prevent based on a single piece of information. In response to questions he speculated that the police visit might not have been based on this

information alone and that it was possible that this was just one piece in a jigsaw that might have led Prevent to visit the claimant. We also note from Mr Johnson's witness statement the comments as follows:

> *"The ONR investigated and they involved the Counter terrorism Police. The conclusion reached was that there were no other indicators of concern and the matter was closed."*

89. It is clear that the conclusion referred to in Mr Johnson's statement was not Mr Johnson's, it was the conclusion of ONR and/or the police. It appears clear, therefore, that it was this information alone that led to the police visit.

90. The claimant was visited on one occasion by Prevent. Police officers attended his house in plain clothes. It was not obvious to neighbours or passers-by by that the claimant was receiving a visit from the police. The claimant's father and wife were at home and the claimant was required to explain to his close family, the visit and who the visitors were.

91. The police officers informed the claimant that he had been reported by his workplace. No other detail of the reporting was provided to the claimant except that the report had been made in January 2018 and the police officers expressed some disquiet about not being asked to follow up the report until May 2018.

Security levels at the respondent's site

92. Finally, we make some findings of fact about security at the respondent's site. Nuclear sites in the UK are graded 1-4 from a security perspective, where 1 is the highest security grade. This site is at grade 3. This site is not one of the highest risk sites. There is however material on site that Mr Johnson told us could be stolen to manufacture a dirty bomb or sabotage to cause significant injury on site. The UK nuclear industry has its own police, the Civil Nuclear Constabulary, which is a police force that sometimes carries arms. In 2013 a decision was taken that the level of risk did not require the Civil Nuclear Constabulary to be armed whilst at the respondent's premises, but arrangements had to be made for an armed response from the local police force, being Lancashire Constabulary.

**Submissions**

93. Miss Barry provided us with a helpful written submissions document and made additional oral submissions. In her submissions, Miss Barry also referred us to passages from an earlier case management order (September 2019).

94. Initially in submissions the Claimant attempted to provide us with additional evidence about his dealings with UNITE, the trade union. We informed the claimant that it would not be fair for him to present new evidence at the submissions stage. The claimant confirmed that the hearing had dealt with all matters and asked that we reach our decision. The claimant also thanked Miss Barry for her professionalism.

95. We note in the section below a number of case authorities that Miss Barry referred us to.

96. In relation to the Prevent Issue, Miss Barry noted

a. That it was out of time – given that the report to ONR was made in before 8 February 2018.
b. That the respondent did not report its concerns about the claimant directly to the police/PREVENT and therefore the issue should be dismissed. We comment on this in our conclusions below.

**The Law**

Direct Discrimination – section 13 Equality Act 2010 ("EqA")

97. Section 13 states:

*"A person (A) discriminates against another if, because of a protected characteristic, A treats B less favourably7 than A treats or would treat others."*

98. An important question for us is whether the claimant's race and/or his religion or belief was an effective cause of the treatment which we find. As was made clear in the case of **O'Neill v. St Thomas More Roman Catholic School [1996] IRLR 372** the relevant protected characteristic need not be the only cause of the treatment in question.

99. We also note the following:-

a. the House of Lords in **Nagarajan v London Regional Transport 1999 ICR 877, HL**, held *"discrimination may be on racial grounds even if it is not the sole ground for the decision……..If racial grounds or protected acts had a significant influence on the outcome, discrimination is made out."* (judgment of Lord Nicholls)

b. Paragraph 3.11 of the EHRC Employment Code which states that *'the characteristic needs to be a cause of the less favourable treatment, but does not need to be the only or even the main cause'*

Burden of Proof

100. We are required to apply the burden of proof provisions under section 136 EqA when considering complaints raised under the EqA.

101. Section 136 states:

" (*1) This section applies to any proceedings relating to a contravention of this Act.*

*(2) If there are any facts from which a court could decide in the absence of any other explanation, that a person (A) has contravened the provision concerned, the court must hold that the contravention occurred.*

*(3) But subsection 2 does not apply if A shows that A did not contravene the provision."*

102. We have also considered the guidance contained in the Court of Appeal's decision in **Wong v. Igen Limited [2005] EWCA 142**. This case concerned the test as set out in discrimination legislation that pre-dated the EqA but the guidance

provided in there remains relevant. The annex to the judgment sets out guidance. (the amended Barton guidance)

103. We are also clear that the wording of the statute itself – s136 EqA - is the key reference in relation to burden of proof when reaching decisions about whether there has been a contravention of the EqA.

*104.* Finally, on the issue of burden of proof, we are mindful of guidance from case law indicating that something more than less favourable treatment may be required in order to establish a prima facie case of discrimination; see for example **Madarassey v. Nomura International [2007 ICR 867]** where the following was noted in the judgment:

> "*The bare facts of a difference in status and a difference in treatment only indicate a possibility of discrimination. They are not, without more, sufficient material from which a tribunal "could conclude" that, on the balance of probabilities, the respondent had committed an unlawful act of discrimination."*

Harassment– section 26 Equality Act 2010 ("EqA")

105. Section 26 (1) states:

> " *A person (A) harasses another (B) if –*
>
> *(b) A engages in unwanted conduct relating to a relevant protected characteristic, and*
>
> *(c) The conduct has the purpose or effect of*
>
> *(i) Violating B's dignity, or*
>
> *(ii) Creating an intimidating, hostile, degrading, humiliating or offensive environment for B*

106. The EAT decision in **Richmond Pharmacology Limited v. Dhaliwal [2009] IRLR 336** emphasised the need for Employment Tribunals when deciding allegations of harassment to look at three steps, namely:-

a. Whether the respondent had engaged in unwanted conduct

b. Whether the conduct had the purpose or effect of violating the claimant's dignity or creating an adverse environment

c. Whether the conduct was on the grounds of the applicable protected characteristic?

Time Limits

107. Section 123 EqA requires a complaint to an Employment Tribunal to be brought "within the period of 3 months starting with the date of the act to which the complaint relates." This is subject to the following:-

a. The right to bring a claim within such longer period "as the Employment Tribunal considers just and equitable."

b. Extensions to the time limit to comply with the ACAS early conciliation procedure (section 140B EqA).

c. That conduct extending over a period of time it to be treated as done at the end of the period (section 123(3)(a) EqA).

Time limits – just and equitable extension

108. Where a claim made under the EqA is out of time then it is necessary for Tribunal to consider whether it would be just and equitable to exercise a discretion so as to allow the claim. Our discretion is wide and the EqA itself does not list any factors that we are obliged to take in to account (or not take in to account). Case law does provide some guidance as to the relevant factors.

109. **Southwark LBC v. Afolabi [2003] ICR 800 CA**. The judgement in this case referred to a checklist set out in s33 of the Limitation Act 1980 noting that, whilst Tribunals should not slavishly follow the checklist, it may be a useful guide. S33 of the Limitation Act 1980 deals with the exercise of discretion when claimants bring personal injury claims in the civil courts and are outside of the relevant limitation period.

110. In **Abertawe Bro Morgannwg University Board v. Morgan 2018 ICR 1194** the Court of Appeal noted that the language used at s123 made it clear that Parliament intended to give tribunals the widest possible discretion and it would be wrong to confine the exercise of that discretion to a specific list.

Conduct extending over a period of time

111. We have considered the recent case of **South West Ambulance Service v. King [2020] IRLR 168** on the application of s123(3)(a) – that conduct extending over a period is to be treated as done at the end of the period. We note the following from that judgment.

112. That the last of the series of acts must be a proven act of discrimination, not just an alleged act which is found not to amount to discrimination.

113. If any of the acts in the alleged series is found not to amount to discrimination then it cannot form part of a series of acts. The alleged series must be considered absent those acts when deciding whether the series of acts amounts to a continuing act.

*114.* When asserting a continuing act for the purposes of s123(3)(a) EqA a party cannot place reliance *"on some floating or overarching* discriminatory *state of affairs without that state of affairs being anchored by specific acts of discrimination occurring over time. The claimant must still establish constituent acts of discrimination or instances of less favourable treatment that evidence that discriminatory state of affairs. If such constituent acts or instances cannot be established, either because they are not established on the facts or are not found to*

*be discriminatory, then they cannot be relied upon to evidence the continuing state of affairs"* (see para 36 of the Judgment of Choudhury J.)

## Discussion and Conclusions

Was there a continuing act?

115. No. We do not find that there have been discriminatory affairs or discriminatory acts over a period of time as was required in the most recent Judgment in the **South West Ambulance** case. We have made findings of fact on all stated issues going back as far as 2014, and it is clear to us from the evidence that we have that the claimant was not subjected to discrimination on an ongoing basis.

116. We have found an act of discrimination in relation to the Prevent allegation. However, we have not found earlier acts of discrimination

Should the claims which are out of time be allowed to proceed?

117. We have looked at whether time should be extended for those claims that are out of time. We note that all complaints of unlawful discrimination, except the Cake allegation, are out of time.

118. We have decided that it would not be just and equitable to extend time except in relation to the Prevent allegation. We note particularly:

a. poor recollection of events at times, including the claimant's own recollections;

b. that the merits of many of the complaints are weak. We note from the evidence we have considered that we have made findings of fact that the claimant's complaints are unfounded other than the Prevent allegation.

c. the fact that the claimant had opportunities to raise specific matters on occasions in the past and did not do so. On the one occasion that the claimant did raise allegations of race discrimination, he was asked for details and refused to provide any.

119. This then leaves the Cake allegation and the Prevent allegation. We have set out clearly what our findings of fact are in relation to the Cake allegation and why we have made those findings. We find the claimant's race and/or religion or belief was not a factor in the choice of words for the cake decoration.

120. The Prevent allegation is out of time. However we note that the claimant was not aware of the respondent's actions until May 2018 when the claimant was visited by Prevent. We also note that the allegation was included in the claim form dated 19 July 2018. Applying section 123 EqA, we are satisfied it would be just and equitable to extend time so that the claimant can proceed with this claim.

121. We have considered submissions by Ms Barry that there was no referral to antiterrorism police by the respondent and therefore the allegation is misconceived and should be dismissed. These are our conclusions:-

a. The claimant's allegation is that there was a referral to Prevent antiterrorism police post-employment, and that that amounts to religion or belief discrimination. We accept that it was not a direct referral by the respondent. Our findings of fact are that the respondent passed on information about the claimant to ONR, not directly to Prevent, and that the respondent did so when the claimant was still employed. A direct consequence of this was the referral to Prevent and the police visit to the claimant's home following the termination of the claimant's employment.

b. The claimant was not aware when issuing his claim that the respondent did not report him directly to the police. The respondent has responded to the allegation by providing its full evidence on the issue. If any tweaking of the amendment to the claim or the issues is required even after the evidence had been provided, there is no disadvantage caused to the respondent.

c. Although the claimant can be criticised for not including a number of details and allegations initially and also not following up on details in his witness statement, this has been the one constant complaint that he has made from the outset of the claim, during case management, the references in his witness statement and at the final hearing.

d. We are required to deal with claims in accordance with the overriding objective, and we are very clear that it would not be fair and just to refuse to reach a conclusion on this issue due to a technicality. We have heard all of the evidence and we are well able to reach our conclusion. So to the extent necessary, even at the late stage that we do, we amend the claim .

122. Once we decided that it was fair and just to reach a conclusion we turned to the decision in **Nagarajan** and particularly the phrase *"significant influence"*. We have also paid close attention to the revised Barton guidance. These are our conclusions.

a. The unfavourable and potentially less favourable treatment was:-

   i. the persistence of a rumour that the claimant made the British troops comment, and:

   ii. the passing on of personal data, including the claimant's home address, his religion and also attributing to him the British troops comment which would lessen his standing with others even though his connection to such comment was unsubstantiated.

b. We have decided that the hypothetical comparator is an employee who is not Muslim who is the subject of an unsubstantiated rumour that he made a commented: "British troops in the Middle East should die".

c. We have decided that there are facts from which we could conclude, in the absence of an adequate explanation, that the respondent has committed an act of discrimination. We have decided that the facts are such that the claimant's religion could have been a significant influence on the persistence of the rumour and the respondent's act of reporting the claimant to ONR.

d. On that basis we need to assess the respondent's explanation and whether it is adequate to discharge the burden of proof that, on the balance of probabilities, religion was not a significant influence on the treatment of question. The revised Barton guidelines say this:

> *"Since the facts necessary to prove an explanation would normally be in the possession of the respondent a Tribunal would normally expect cogent evidence to discharge that burden of proof."*

e. We note that there is no explanation for the circulation or persistence of the rumour. There is no evidence at all about when this comment was supposed to have been made by the claimant, where it was made, the context in which it was made, who made it, who it was made to and who reported it to Mr Cotton. The respondent has no explanation at all for the rumour.

f. We find that a significant influence on that rumour persisting, that the claimant made the comment, was the claimant's religion. The claimant had become more religious. He displayed more openly his observance of Islam. That is the evidence of the claimant, of Mr Cotton and of Mr Berry. Had the claimant not been Muslim, this rumour would not have persisted to the extent that it did.

g. We find that the rumour was allowed to persist as it was reported up the management reporting chain to Mr Johnson. It was then reported by Mr Johnson to the ONR; not as an unsubstantiated rumour but as a fact. We accept the series of other concerns by Mr Berry, but as we have made clear in our findings of fact the concerns were distilled down by Mr Johnson.

123. The rumour would not have persisted had the hypothetical comparator made the British troops comment. The climate which turned this from a difficult management issue to a security issue would not have existed. The rumour would not have continued up to and including the stage that the report was made to ONR and which then led to the police calling on the claimant at his home. We find therefore that that this allegation of direct discrimination (protected characteristic religion or belief) contrary to section 13 of the Equality Act 2010 succeeds.

Employment Judge Leach

Date 24 February 2021

JUDGMENT AND REASONS SENT TO THE PARTIES ON
25 February 2021

FOR THE TRIBUNAL OFFICE

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