



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr M. Steyn

**Respondent:** IBM United Kingdom Ltd

**Heard at:** Watford (by CVP)

**On:** 30 April 2021

**Before:** Employment Judge McNeill QC

## Appearances

For the Claimant: Mr A. Sendall, Counsel

For the Respondent: Mr A. Edge, Counsel

## OPEN PRELIMINARY HEARING

## JUDGMENT

1. The Claimant's claim that he was treated less favourably because of his age when, on or around 13 November 2017, he was told by Vanessa Leyva that he was "*too old*" for a CSE role in the UAE for which he had applied, as set out at paragraph 2.4 of the agreed list of issues, is dismissed on withdrawal by the Claimant.
2. The Claimant having withdrawn that claim, no order is made on the Respondent's application to the Tribunal, made in a letter dated 19 November 2020, to strike out that claim (or make a deposit order).
3. The Respondent's application in the letter of 19 November 2020 to exclude certain evidence as inadmissible is upheld. The following evidence is inadmissible and may not be adduced before the Tribunal at the full merits hearing:
  - a. The witness statement of Ms Catherine Rodgers, signed on 7 September 2020, save for the evidence in paragraphs 1, 2 and 19-22 of that witness statement;
  - b. Those sections of the Claimant's witness statement that are highlighted in yellow in the statement included in the Preliminary Hearing bundle provided to the Tribunal for today's hearing;

- c. All those documents in the sections numbered 32, 33 and 34 in section B of the Preliminary Hearing bundle.
4. The Claimant will **by 14 May 2021** provide to the Respondent revised witness statements from the Claimant and Ms Rodgers, amended solely to exclude the matters found by the Tribunal to be inadmissible.
  5. Permission is granted to the parties to call their witnesses by video link at the hybrid hearing commencing on 1 June 2021, save for the Claimant who will give evidence in person to the Tribunal. The parties should jointly inform the Tribunal **by 7 May 2021** of (i) the names and email addresses of the witness who will be called to give evidence by video link; and (ii) on what days those witnesses will give evidence. The parties should agree a timetable for the giving of evidence by video link so that the evidence is given efficiently and on no more days than is strictly necessary.
  6. Consideration of the Claimant's application dated 28 April 2021 for disclosure of a Memorandum of Understanding referred to in a document disclosed by the Respondent since 21 April 2021 may be dealt with at the start of the hearing on **1 June 2021** if the parties are unable to reach agreement in relation to this document.

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**Employment Judge McNeill QC**

Dated: 30 April 2021

Sent to the parties on:

4 May 21

For the Tribunal:

**Notes**

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a written request is presented by either party within 14 days of the sending of this written record of the decision.

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