EMPLOYMENT TRIBUNALS (SCOTLAND)

5

Case No: 4102154/2020 (V)

Heard by means of CVP on 18, 19, 22, 23, 24, 25, 26 February and 8 April 2021

10

Employment Judge J Young
Tribunal Member E Coyle
Tribunal Member R Martin

15

Dr Masoumeh Velayati	**Claimant** **Represented by:** **Ms Joanne Twomey, Counsel** **Instructed by:** **Ms H Johnson, Solicitor**
Al-Maktoum College of Higher Education	**Respondent** **Represented by:** **Ms A Stobart, Counsel** **Instructed by:** **Mr J Boyle, Solicitor**

20

25

30

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The unanimous judgment of the Employment Tribunal is:-

1. to dismiss the claims presented to it of less favourable treatment by direct discrimination because of the protected characteristics of sex and/or religion or belief under s 13 of the Equality Act 2010;

35

2. to dismiss the claims presented to it of harassment related to the protected characteristics of sex and/or religion or belief under s 26 of the Equality Act 2010;

3. that the claimant was not unfairly dismissed in terms of s 98 of the Employment Rights Act 1996.

REASONS

5 1. In this case the claimant presented a claim to the Employment Tribunal making various complaints against the respondent which by the time of the hearing had been helpfully distilled to a direct claim of discrimination because of the protected characteristics of religion or belief and/or sex; harassment related to the protected characteristics of religion or belief
10 and/or sex and unfair dismissal. The respondent denied these claims.

The hearing

Documentation

2. The parties had helpfully liaised in the production of a Joint Inventory of Productions which was supplemented in the course of the hearing
15 (numbered J1-187 and paginated J1-1013). Reference to documents in this judgment are to the paginated numbers.

Witnesses

3. The Tribunal heard evidence from:-

(i) The claimant who has qualifications in both Humanities and Social
20 Sciences with particular focus on gender, religion, feminism, politics and international development. She studied Islamic and Religious Studies with a major in Comparative Religions at the University of Tehran; obtained a PhD in International Development at the Department of Politics at University of York; and MA in Gender and
25 International Development at the Centre for Women's Studies University of Warwick all as more particularly described in her Statement of Skills and Experience and CV (J466-471 and J511-523). She joined the respondent in February 2011 as a Lecturer in the Study of Islam and Muslims that employment being terminated
30 with effect from 20 December 2019.

(ii) Dr Hossein Godazgar who was employed as a Reader in Studies of Islam with the respondent from 1 October 2010; and subsequently appointed a Director of the respondent and Acting Head of School from 22 June 2011. He was then appointed as Principal of the respondent with effect from September 2013 and that role continued until October 2017 with his employment terminating on the expiry of a one year sabbatical. He is the husband of the claimant.

(iii) Safaa Radoan who had been employed by the respondent as a Teaching Fellow in Arabic in the period from April 2015 until her resignation in October 2019.

(iv) Dr Abubaker Gaber Abubaker who joined the respondent as an Administrative Assistant in 2002; subsequently Administration Officer with the responsibility for HR, Health and Safety, Finance and Student Affairs; from 2007 appointed to the position of Director of Operations and continued in that role until appointed as College Secretary and Acting Head of School from 1 November 2017 when Dr Godazgar vacated that position.

(v) Dr Alhagi Manta Drammeh employed by the respondent as a Lecturer in the period 2004-April 2014 when he left to take up an appointment with the Muslim College in London and as an occasional Lecturer at London Central Mosque. He returned to the employ of the respondent as Senior Lecturer/Associate Professor in November 2017. He had a BA in Political Science and International Relations and then MA in Islamic Theology, Philosophy and comparative religion from International Islamic University Malaysia; and PhD in Islam and Modernity from Muslim College London (affiliated with and validated by Al-Azhar University in Cairo); all as more particularly described in his CV (J997-1001).

(vi) Dr Sara Al-Tubuly who was appointed Lecturer in Arabic Language with the respondent from September 2016.

(vii) Graham McKee a member of the respondent's College Council from October 2014.

(viii) John Mullen HR Consultant with HR Booth from 2019 having worked within Human Resource for approximately 30 years prior to that appointment; and

(ix) Alistair Booth Director of HR Booth since 2013 having been involved in HR matters for a period of about 20 years prior to that time.

(x) Lord Murray Elder a member of the Board of Directors and Chancellor of the respondent for approximately 20 years and in that capacity chaired the College Council.

List of issues for the Tribunal

4. The parties had aided the Tribunal in identifying a list of issues as set out below.

Direct Discrimination on the basis of religion/belief and or sex

1. Did the claimant suffer the following less favourable treatment?

1.1 Dr Abubaker failed to respond to the claimant's sabbatical report;

1.2 The respondent's decision not to promote the claimant to Senior Lecturer in January 2019;

1.3 On 15 January 2019, Dr Abubaker cut the claimant off saying he "did not have time for all this";

1.4 The email exchanges between Dr Abubaker and the claimant following the conversation on 15 January 2019;

1.5 The respondent's refusal to grant the claimant's request to attend a conference in Spain on 15 April 2019;

1.6 The respondent's failure to reimburse the claimant for a registration fee on 02 May 2019 after a conference in June 2019;

1.7 The respondent's refusal to authorise the claimant to attend free training on 31 July 2019;

1.8 The respondent side-lined the claimant from academic decisions following her return from sabbatical;

1.9 Dr Abubaker had more meetings with Dr Alhagi Drammeh than the claimant;

1.10 On 03 September 2019, Dr Abubaker stated he preferred a lean style of management and he wanted to "get rid of waste" and "anything that doesn't work should be eliminated";

1.11 The respondent making the claimant redundant on 20 December 2019.

5

2. If the less favourable treatment did occur, was the claimant treated this way because of her religion/belief and/or sex?

3. If so, was the claimant treated less favourably than a hypothetical comparator and/or the following workplace comparators:

10

3.1 Dr Drammeh

3.2 Dr Alija Avdukic

Harassment related to religion/belief and/or sex

4. Did the respondent engage in unwanted conduct as outlined in paragraph 2, above?

15

5. Was the conduct related to the claimant's protected characteristic(s) (religion/belief and/or sex)?

6. Did the conduct have the purpose or effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for her?

20

7. Did the respondent take all reasonable steps to prevent the harassment complained of?

8. Is the dismissal automatically unfair? If so, on what basis?

9. Was there a diminution or cessation or an expected diminution or cessation in work of a particular kind?

25

10. Did the respondent follow a fair procedure in selecting the claimant for redundancy?

11. Did the respondent make reasonable efforts to find alternative employment for the claimant?

Time Limits

30

12. When did the acts complained of take place?

13. Did the claimant lodge a claim within three months of the last act of discrimination (subject to any extension of time for early conciliation)?

14. Can the claimant prove that there was conduct extending over a period which is to be treated as done at the end of the period? Is such conduct accordingly in time?

15. Is it just and equitable for the time limits to be extended to enable the claimant's claims to be heard?

Remedy

16. Has the claimant shown the extent of her injury to feelings? If so, what injury to feelings award should the claimant receive?

17. Has the claimant suffered financial loss as a result of the dismissal? If so, what losses are these?

18. Interest? Should interest be awarded and if so at what rate?

Findings in fact

5. From the relevant evidence led, admissions made and documents produced the Tribunal were able to make findings in fact on the issues. Given that inferences require to be drawn in respect of many of the issues in this case there is inevitable rehearsal of evidence.

6. The respondent is funded primarily by the Al-Maktoum Foundation. It is a small college seeking to promote learning through academic, technical and customised programmes. It is managed under the authority of a Board of Directors who determine the general policy of the respondent. The directors of the respondent include Mr Mirza Al-Sayegh as Chairman; Lord Murray Elder as Chancellor and Dr Abubaker as Secretary and Acting Head of College.

7. As part of governance the respondent receive advice from the College Council which receives reports on the working of the respondent, discusses any matters relating to the respondent and conveys opinions to the Board of Directors; Head of College and Chancellor. It is composed of 18 members and four committees. Its membership is generally drawn from respected members of the local community.

8. The respondent was founded in 2002. Initially its courses were validated by the University of Abertay and then from 2004 validated by the University of Aberdeen under the School of Theology, Philosophy and History. That validation expired in 2012.

5 9. The respondent then sought validation from the Scottish Qualifications Authority (SQA) which was successful in 2014. In the period 2012/2014 the respondent conducted no teaching.

10. When validated by Abertay University the respondent offered an MLitt in Islamic Studies; and when validated by Aberdeen University offered an
10 MLitt in Islamic Studies and latterly a PhD in Islamic Studies.

Claimant's appointment

11. The claimant accepted the post of lecturer in the study of Islam and Muslims from the respondent with effect from 1 February 2011. The claimant received a statement of terms and conditions appropriate to the
15 appointment (J193-201).

12. The claimant also received notice of policies relevant to her employment including a policy on redundancy procedures; grievance; travel and anti-bullying and harassment (J202/211).

13. At the time of her appointment Dr Drammeh was Head of Department and
20 so Line Manager for the claimant. In the period 2012/2014 he developed programmes with Dr Godazgar for successful accreditation by SQA. Dr Drammeh then left the employ of the respondent and took up the position as an Associate Professor at the Muslim College in London and when there also taught at the Central Mosque.

25 *Claimant's beliefs*

14. The claimant as a Shia Muslim is a follower of the Shia Islamic faith. She has feminist attitudes in terms of religious matters. She believes that the traditional interpretation of Islamic texts can lead to the exclusion of women and violence in marriage/divorce and status. She would challenge
30 these issues from a "gender inclusion perspective". In her teaching on Women in Islam she would set out the factual background and look to the

"conservative male interpretation and try and dissect these areas". Her contention was that Dr Abubaker had traditional attitudes "from an Islamic perspective" and "day to day less respectful to women than men". Dr Abubaker is a Sunni Muslim.

5 *Allegations made by Dr Godazgar*

15. There were allegations made by Dr Godazgar which were described as "background matters".

16. He maintained that Dr Abubaker was against the employment of the claimant because (a) she was a Shia Muslim as distinct from a Sunni 10 Muslim and (b) that she held feminist views which was not in keeping with the teachings of Islam. A separate third allegation was made that Dr Abubaker had prevented an Iranian student from reading the Qur'an at a Ramadan event organised by an Asian student during the academic year 2011/2012 because he was a Shia.

15 17. Dr Abubaker described the claims regarding dissent from the appointment of the claimant on account of her religion or because she expressed feminist views as "absolute nonsense". The evidence from Dr Godazgar was to the effect that he had had a conversation with Dr Abubaker in the early months of the claimant's employment when it was suggested that 20 the academic appointments were not for Shia Muslims and separately in a discussion on feminism Dr Abubaker had recited some Islamic verses to indicate that women were not equal to men in Islam.

18. Dr Abubaker stated that the appointment of Dr Velayati had been made by a panel including the Head of College at the time; himself; a 25 representative from Aberdeen University and an academic colleague from Abertay University. There may have been other external people on the panel. More than one person was interviewed. A panel discussion ensued. He advised that he thought that there was a candidate who "shaded" the claimant but it was a close run contest. The panel decided 30 that Dr Velayati should be offered the position. He explained that he was from Libya which was "100% Sunni Muslim" and he knew nothing about and had no interest in distinguishing Sunni Muslim from Shia Muslim. He

was "disappointed to say the least" that there was an allegation of discrimination against other faith groups. The college was based on diversity and multi-culturalism and he could not operate with any sectarian attitude.

5 19. As regards the separate allegation on feminism he again denied any such conversation. He indicated that he would have no view as to whether the claimant would identify herself as a feminist. That was not something which would be apparent from her CV or in any discussion that he had at the time of appointment.

10 20. On the issue of preventing an Iranian student from reading from the Qur'an he had no recollection from the event itself and certainly no recollection of any prohibition against a student reading from the Qur'an. If there had been any issue or suggestion of him preventing a student reading from the Qur'an that would have been a matter which should/would have been 15 raised by Dr Godazgar as the Principal at the time. Similarly, any issue of suspected discrimination against the claimant should also have been raised at the relevant time by Dr Godazgar as Principal but he had never done so.

21. The Tribunal did not consider that (i) there had been a conversation 20 between Dr Godazgar and Dr Abubaker either suggesting that he was against the appointment of the claimant on account of her religion as a Shia Muslim or because she had declared herself to be a feminist or (ii) that the allegation that Dr Abubaker had prevented an Iranian student from reading from the Qur'an because he was a Shia Muslim was made 25 out.

22. In the first instance the Tribunal did not consider the matters had been made out from the exchange of evidence itself.

23. The Tribunal also had in mind that it was agreed that the previous Principal, Professor Nye and the Chairman, Mr Al-Sayegh were Shia 30 Muslim and it was unlikely that discrimination against Shia Muslims by Mr Abubaker would have passed unnoticed. No action was taken by the former Principal or Mr Godazgar as the successor Principal in respect of

any issue wherein discrimination was being asserted against Dr Abubaker on the grounds of sex or religion.

24. Additionally there were extensive pleadings in this case from the claimant with a very full ET1 claim form setting out the particulars of claim and answers given to the further and better particulars of claim (J13/23 and J62/66). These allegations by Dr Godazgar did not form part of the claim. Neither were they raised or identified in the written grievance lodged by the claimant in the course of her employment (J643/647) or at the grievance hearing itself. Neither were they part of the distilled list of issues for the Tribunal which had been agreed between the parties.

25. The Tribunal considered that if these allegations had been well-founded they would have been raised previously and not in the first instance at the hearing on the merits.

26. Dr Godazgar also by way of background referred to a visit to a Dundee restaurant in company with others when Dr Abubaker said "not nice things" of Shia Muslims such that the claimant was "shocked". However his explanation of this incident was not clear and Dr Abubaker had no recollection of any incident involving him being rude about Shia Muslims in any such setting. The Tribunal was unable to make any finding that this had occurred. It was not a matter raised by the claimant. Again it was not a matter which appeared within the extensive pleadings or grievance raised by the claimant or in the list of issues.

27. Additionally, the Tribunal did not consider that a further allegation made by Dr Godazgar that Mr Abubaker had previously indicated that Dr Drammeh was incompetent and should be dismissed was credible. Included in this suggestion was that Dr Abubaker wished to involve Lord Elder in dismissing Dr Drammeh and that Dr Drammeh had failed to get a PhD in Paris despite being funded by the College. It was also alleged that Dr Drammeh had obtained his qualifications from the Muslim College which Dr Abubaker had said was not an "awarding body". These were matters never put to Lord Elder or Dr Drammeh. These allegations again had no provenance within the pleadings, grievance or issues and appeared to have no foundation.

The claimant's sabbatical

28. The claimant and her husband Dr Godazgar took a period of sabbatical commencing 1 November 2017. By letter of 27 October 2017 to the claimant (J300/301) the sabbatical was to end 31 October 2018. In that period the claimant was "expected to undertake relevant research and academic writing" but not to carry out any work for the respondent. She was to be retained as an employee with the right to unbroken service and salary and pension contribution and to return to the respondent as "Assistant Professor (Lecturer) in Gender and Development" at the end of this sabbatical leave. Holidays were to continue to accrue along with death in service benefits. It was intended that the claimant return to work for the respondent after taking accrued holidays on expiry of this sabbatical year. It was stated that upon return "if your previous job is not available, every effort will be made to provide a suitable alternative opportunity including redeployment where appropriate and acceptable". Her salary on return was to remain at £41,269 irrespective of any salary increases which may have occurred during the sabbatical term and her salary was to be reviewed at the next review cycle following return. The claimant accepted those terms on 31 October 2017.

29. Prior to that leave being taken Dr Abubaker sought a briefing note from the claimant on matters which would require attention in the claimant's absence and that briefing note was supplied (J297/299). That briefing note explained that the claimant's "teaching responsibilities" at the time were teaching "Women and Islam unit solely (5 more session remains to finish the course. No arrangement has been done for this)" and that she also taught "some sessions for the Introduction to Islamic Studies" and "shared teaching of the research methodology unit with Salah (two sessions – weeks 10 and 11)" with some group activities and presentations along with her colleagues.

30. Subsequent to 1 November 2017 the respondent were without a Head of College and the claimant with her teaching responsibilities. Dr Abubaker contacted Dr Drammeh who at that time was working with the Muslim College in London and asked if he would return to the respondent. He agreed to return on the basis that he would be a Senior Lecturer

(Associate Professor) as that was the position he now held with the Muslim College in London. He was able to teach the courses which had been taught by the claimant. Dr Drammeh entered into a fixed term contract of one year to November 2018. This was subsequently renewed for a period of six months to May 2019; renewed again for a further period of six months to November 2019; then renewed for a further year to November 2020; and renewed for a period of one year to expire November 2021.

31. In the period of sabbatical Dr Drammeh covered the core courses on Islamic Studies being Women and Islam; Research Methodology; Islamic Ethics; and Islamic Core Sources and Approaches. At this time the course was validated by the SQA.

Return from sabbatical

32. On return from sabbatical and accrued holiday a meeting took place between the claimant and Dr Abubaker on 7 January 2019 being a "return to work meeting". The purpose was to welcome the claimant back to the workplace and outline changes that had taken place. The meeting was also attended by Dr Drammeh. The content of the meeting was summarised in an email to the claimant of 8 January 2019 (J336). It was agreed that the claimant would submit a report covering the main items of her sabbatical. That report was submitted on 9 March (J333/334).

33. That report set out activities conducted in the course of the sabbatical year including that she "also attended departmental seminars at Warwick (University) in the spring term" and concluded by indicating that the claimant would like to "take this opportunity to request a promotion in my academic position to an Associate Professorship position". She believed that her "academic and scholarship output as well as previous teaching and contribution at the College" justified that promotion and that this was the position was granted to the claimant by the "Department of Sociology at Warwick University based on my CV in 2017 for my sabbatical visit".

34. The claimant also considered that her qualifications and experience were superior to that of Dr Drammeh and Dr Avdukic (who was engaged by the

respondent in the Islamic Economics and Finance Programmes) and who were in the position of Senior Lecturers.

35. The claimant received no acknowledgement or response from Dr Abubaker on the report or request to be considered for promotion. Dr Abubaker accepted that it would have been courteous to have acknowledged or responded to the report received from the claimant but did consider that he had discussed the sabbatical year with the claimant at the meeting on 7 January 2019 and there was nothing that he needed to raise from the report.

36. As regards the request for promotion he considered that (1) the terms of the return of the claimant set out in the agreed letter was to the position of Lecturer with no review of salary and any review was to take place at the succeeding review cycle (2) it was a small college and there was limited room for manoeuvre in promotion. Any such promotion would have required a more detailed and considered application and would have led inevitably to the appointment of a panel to consider the application. That panel would have comprised internal and external interviewers who would require to make extensive consideration of the publications and experience of the claimant. He did not consider that the reference to promotion within the briefing paper was an appropriate application. No reference was made to this matter by the claimant at the meeting on 7 January 2019.

37. In the evidence from the claimant she advised that the lack of response from Dr Abubaker "made her realise that she was not welcome" and at a subsequent meeting of 15 January 2019 (later described) Dr Abubaker had "shouted at me and cut me off" and she "realised not get any response".

38. There was no evidence produced of any particular procedure to be adopted on promotion. The respondent employee handbook (J942/989) set out various policies but none on promotion.

College meetings.

39. Subsequent to Dr Abubaker being appointed as Acting Head of College following the departure of Dr Godazgar and the claimant on sabbatical he decided to reduce the number of meetings that took place within the College. He considered that the staff could not continue to meet for the "smallest of matters" and that there should be a more streamlined approach. Accordingly he put in place informal meetings with Programme Co-ordinators responsible for particular courses on a weekly basis as they had their "fingers on the pulse" and he would be able to obtain sufficient feedback from those meetings. In the sabbatical year Dr Drammeh had occupied the position of Programme Co-ordinator for Islamic Studies and Unit Co-ordinator for Women in Islam (J302-332) and so there were continued informal meetings with him. Similar arrangements were made with other Programme Co-ordinators. However that did not affect "governance meetings" within the College which comprised Board of Studies; Marketing and Recruitment; and Teaching Learning and Student Experience Committee (TeLSEC). He also instituted a staff meeting on the last Friday of each month where all academic and administrative staff gathered and could discuss any topical issues and be updated with any new developments. He also advised that his "door was always open" to anyone who wished to speak to him. That was subject to him being able to have some uninterrupted time in the day. The email of 11 April 2019 (J346) from his Personal Assistant advised all staff that other meetings might be arranged.

40. No students were enrolled on the Islamic Studies Programme for the academic year 2018/19 and so there were no teaching responsibilities for the claimant on her return. The intent was that she and Dr Drammeh would work on revisal and development of the Islamic Studies Programme. Dr Abubaker wished them to work together to develop a refreshed programme. This had been referred to in the letter to the claimant of 8 January 2019 stating "it is agreed that you will work alongside Dr Drammeh to continue the review of the Islamic Studies programme including proposing new modules, consider combining with another subject area and ultimately to design a new post graduate programme".

Meetings with Dr Drammeh as Programme Co-ordinator continued after return of the claimant from sabbatical.

Meeting of 15 January 2019

41. A TeLSEC meeting comprising academic staff with administrative support was arranged for 15 January 2019 being one of the standing committees of the respondent. Academic staff present at this meeting were the claimant; Safaa Radoan; Dr Sara Tubuly; Dr Drammeh and Dr Abubaker. Administrative support was available for the taking of notes with Minutes provided.

42. The claimant's position on this meeting was Dr Drammeh had asked a question on a particular matter and the claimant had asked for an explanation of what this issue entailed. Dr Drammeh had started to explain but had been cut off by Dr Abubaker saying "we don't have time for this – let's get on with the meeting". At the end of the meeting and as the attendees were leaving Dr Abubaker in a "harsh tone" asked the claimant and Dr Drammeh to stay behind as if "we had done something wrong". The claimant felt intimated and embarrassed and did not know why Dr Drammeh should stay behind.

43. When gathered, Dr Abubaker had again used the "harsh tone" asking the claimant "how do you find coming back?" and said that he had concerns about the claimant taking "extensive notes". She explained that she needed to catch up and Dr Abubaker asked why she did not wait for the minutes as all these discussions were confidential. The claimant also indicated that Dr Abubaker had said that others had made comment about her extensive note taking and this made them feel uncomfortable. She complained that Dr Abubaker had "shouted at her".

44. The position of Dr Abubaker was that this committee had not met for a while and there was a full Agenda, a lot of matters to consider and a full attendance. At the beginning of the meeting the minutes of the previous meeting were considered and the claimant picked up on an "assessment change" – "turned to colleagues asking 'what is this, what is this' to which Dr Drammeh started to explain and I said 'leave to after the meeting' as

we were right at the start and wished to progress matters. I asked that she speak to colleagues after the meeting to catch up. There was nothing personal and I simply wished to get on with the Agenda and the work of that committee."

45. He had asked her to stay behind after the meeting because it was convenient to speak to her at that time. He did not single her out for any reason. People were asked to stay behind for various reasons after a meeting to pick up on any current matters. Dr Drammeh and the claimant were to work together and there was no malice or ulterior motive. The claimant did say when they met after the meeting that Dr Abubaker had shouted and he explained he had raised his voice because he has a hearing difficulty in his left hand side. He did notice that she was taking many notes and it seemed clear that the claimant was not happy and not content with the changes which had taken place during her absence. The behaviour of taking extensive notes was something new for the claimant and it was certainly noticed by him and others as if she was trying to build up some form of case. He did not consider there were any bad feelings after this discussion.

46. The meeting was followed by an email from Dr Abubaker to the claimant of 15 January 2019 (J339) which stated that he wished to apologise "if you thought I was shouting, this was not my intention. You are aware that I have hearing problems and sometimes, unintentionally I tend to raise my voice without realising". He further stated:-

> "The reason for the conversation was to enquire as to how you were settling in having completed your first week back at work. Furthermore, it was noticed by myself and a number of colleagues that you seemed to take extensive notes at every meeting you attend and wish to clarify whether there is any particular reason for that. You explained that this is your strategy to catch up with committee's business having been away during the last year.
>
> I went on to stress that proceedings of committee meetings are confidential and that those attending the meetings will receive a copy of the minute once it is ready. Furthermore, I affirmed that I will not tolerate any actions that may be construed as harming the good

working relationship we have now at the College or bring the College into disrepute.

You are part of the academic team at the College and we are keen to work with you and benefit from your expertise. However you should note the College has made significant progress since you were away on sabbatical and that changes have taken place in relation to how we conduct business. We will be extremely happy to assist you to keep abreast with the changes".

47. He received an e-mail from the claimant dated 17 January 2019 (J340) in which she thanked Dr Abubaker for the apology and "accepting that you unintentionally raised your voice without realising". She explained that the note taking was to catch up on changes and appreciated that change was inevitable. She advised that she was fully aware of confidentiality and indicated that comment made her feel that she is not going to be trusted as a member of staff to work for the benefit of the College and that did not project a positive and collaborative environment. She concluded by saying:-

"I genuinely want to work for the benefit of the college and as stated in my sabbatical report all my academic activities were presented under my affiliation with Al-Maktoum College which promotes the college's academic profile. Therefore I hope and wish to work for the good of the college in a supportive and collaborative environment based on trust and respect."

48. That e-mail was responded to by Dr Abubaker (J340) in which he advised:-

"I sincerely hope that you will heed my advice and work closely with your colleagues in order to keep abreast with the changes and to continue to concentrate your efforts to contribute fully to the development and success of the college as you have done in the years gone by. I appreciate that it is not easy for you having had delegated academic management responsibilities to come back to a role where the management aspect is no longer required. This is not a reflection on your ability or dedication, it is simply a matter of restructuring and

reallocation of roles within the college that have taken place over the last year."

49. The evidence of Safaa Radoan who was present at the meeting was that she did not recall the actual words said but did remember the claimant being asked to stay behind at the end of the meeting. She was asked if Dr Abubaker was speaking loudly and indicated just normal speaking voice – on this occasion just kind of angry – as if hiding that angry and that the tone was "serious" but not recall more details. She had heard later about the conversation that took place after the meeting as the claimant seemed "a bit stressed and I checked ok and she told me".

50. Dr Sara Al-Tubuly had no recollection of there being any particular issue arising out of the meeting of 15 January 2019. She had difficulty recalling the meeting and when asked if she recalled the claimant being cut off by Dr Abubaker at the meeting stated that she did not "probably because colleagues were cut off all the time". She did not recall the claimant being asked to stay behind after the meeting. It was clear that the claimant was taking a lot of notes. She had not complained about that but it was beyond normal and then it stopped.

51. Dr Drammeh's position was that the claimant was taking notes "furiously" and did not consider there would be any need for notes to be taken as there would be minutes circulated subsequent to the meeting. He did recall after the meeting the claimant indicating that Dr Abubaker had shouted and he said that he did not mean to and apologised. Dr Drammeh did not consider that Dr Abubaker had shouted but simply raised his voice and was firm but not rude.

52. The claimant's position was that after this incident she had felt that she was unwelcome and not trusted and did not expect what was stated in the email from Dr Abubaker. She was extensive in note taking but was simply trying to "get up to speed". She had asked colleagues and none of them had said that they had a problem with her note taking.

Claimant's request to attend conference in Spain

53. The claimant wished to attend a conference in Barcelona between 9/12 July 2019 and completed the form which had been developed for that purpose on 15 April 2019. That required the approval of Dr Abubaker. The total expected cost including registration fee (£946.50) travel and accommodation was £946.50.

54. This was submitted to Dr Abubaker who agreed to time off for attendance but would not allow the whole cost but only the registration fee. The claimant in her pleadings had indicated her belief that others would be entitled to the whole cost of attending a conference because the respondent's mission statement stated that the college was a "research led institution" and that the college aimed to become a "centre of excellence through its teaching and research activities". Also, the claimant discovered that Dr Avdukic was to go to a conference to Bosnia in November 2019 and suspected that his whole trip expenses were reimbursed by the college.

55. Dr Abubaker explained that before he became Acting Head of College and after the loss of validation from Aberdeen University there were years when no students were taught. In that period there had been considerable travel on international conferences but no apparent benefit to the College. When he became Acting Head he changed the focus and research was not a priority and teaching "was paramount". Accordingly, the respondent would not support the cost of travel and accommodation at international conferences. The organisers of the conference would require to pay for these costs if they wished a member of staff to attend. Only time off to attend and the cost of the registration fee would be granted. For UK conferences travel costs and the registration fee and time off would be granted. The claimant agreed she had been told this by Dr Abubaker.

56. Dr Abubaker explained that the conference to be attended by Dr Adjukic had been organised by the University of Sarajevo who were to pay all expenses for Dr Adjukic. He only required time off to attend. In a separate matter Dr Rahmani had sought attendance at an international conference but was not allowed the cost of travel/accommodation and the respondent

was only to pay for the registration expense and time off. Accordingly, Dr Rahmani did not attend albeit he was to present a paper. He sent the paper to the conference which was then delivered by another participant.

57. The position of Dr Drammeh was that when he returned to the College in 2018 he was told that the focus was on teaching and not research and that the college would only pay a registration fee for conferences and grant time off. The cost of travel/accommodation would require to be borne by the organiser. He had gone to a conference in Ankara and the organiser had paid for the costs involved. He had also attended a conference in London and on that occasion the organisers had also paid.

58. The claimant did attend the conference (paying for travel and accommodation) and incurred the cost of registration of 183 euros (J91). She advised that she had not been reimbursed the registration fee. She advised that she had made a request for payment from the College.in respect of the registration fee of 183 Euros. She explained that the policy on recovery of expense was to write a report on the conference and claim the expenses incurred. If no report within a week then expenses were not reimbursed. She had supplied the report and submitted that together with her receipt for payment (J91) but did not receive payment. She stated that the documents had been handed in to Dr Abubaker but she was not reimbursed.

59. The claimant advised in cross examination that she had attached the invoice from ISSR to the report. It did not appear to have been handed to Claire Booth being the person to administer the payment of expenses and "maybe should have given to Clare Booth" and "may be wrong not to submit to Clare Booth". However she indicated she had raised this in her grievance submitted some time later and there was still no payment. She agreed that she had submitted a claim for registration fee and travel for a day conference in Warwick University on 14 June 2019 which had been approved by Dr Abubaker (J360) and that form submitted "maybe to Clare" and the expenses paid

60. Dr Abubaker's position was that he had never seen this invoice until the bundle of documents had arrived in respect of the hearing and he had no

knowledge of any non-payment. His position was that if there was an invoice for a registration fee then it should have been paid and that the claimant well knew the arrangements for recovery of expenses. This matter had not been brought to his attention until such time as the grievance was lodged by the claimant.

61. The Tribunal were unable to find that the claimant was treated any differently from her colleagues in respect of the Spanish conference. The evidence was that there was a change in policy while the claimant was on sabbatical and that the respondent no longer paid for travel and accommodation costs to international conferences. That was a matter between the member of academic staff and the organiser of the conference if an invitation was extended to present a paper and if the member of academic staff wished to attend.

62. There was a set procedure for the payment of expenses and on balance the Tribunal found procedure had not been followed by the claimant on this occasion in presenting the invoice to Claire Booth who would administer the payment of expenses. There was no evidence that Dr Abubaker had prevented payment or that the claimant had been singled out for non-payment of this registration fee.

Conference in Dundee

63. The claimant sought approval to attend a one day training event on "Research Grant Application Writing" in Dundee (J364). This was approved but the organisers of the conference required to cancel the intended date (J366) on 1 June 2019. She submitted a feedback form to indicate that the conference had been cancelled (J365).

64. On return from her holiday on 29 July 2019 she discovered that the conference had been rescheduled to 31 July 2019. She spoke to Dr Abubaker's PA to tell her that the conference had been rescheduled and that it had been approved before. The PA said that there was no need for another request and simply to print the email to say that it had been rescheduled and she would pass to Dr Abubaker. When she asked for the approval form she said that "Lynn was embarrassed as the training

had not now been authorised". The claimant's evidence was that there was a big "NO" written on the letter. When she asked why this approval was not being granted as it had already been approved "Lynn said she did not know" The claimant did not check with Dr Abubaker for the reason saying she did not ask because he was "exercising his power"

65. The evidence of Dr Abubaker was that this event had been authorised by him albeit he was doubtful as to its relevancy. He had no recollection of seeing the form indicating that the conference had been cancelled and "moved on". He had no knowledge of this matter other than authorising the attendance. He had not altered his decision in disallowing attendance at the re-scheduled event. There was no production of the form which the claimant stated had been written upon denying authorisation.

66. The Tribunal were unable to conclude that there had been any decision by Dr Abubaker to rescind his previous decision to allow attendance at this conference. It seemed an unlikely act given the conference was local event. It seemed an unlikely way to "exercise power". The claimant advised that she had at the time a document which had refusal written on it but that was not produced. In the absence of that document which would vouch for removal of authorisation the Tribunal was not able to make a finding that approval had been rescinded.

The claimant being sidelined from academic decisions

67. The claimant advised that she had no informal meetings with Dr Abubaker albeit others were having meetings. She was being denied information and side-lined and this was not a professional process.

68. As was explained by Dr Abubaker there was a change in the frequency of meetings within the college on upon him becoming Acting Head which was within his province. He decided to hold informal meetings with Programme Co-ordinators as a way of keeping in touch with academic developments. In the period of sabbatical Dr Drammeh was the Programme Co-ordinator for Islamic Studies. Prior to her departure on sabbatical the claimant had been in the position of Head of Department but that position no longer existed on her return.

69. Dr Abubaker held weekly meetings with the appropriate Programme Co-ordinators. The meetings he held with Dr Drammeh; Safaa Radoan and Dr Al-Tubuly were in their position as Programme Co-ordinators. Safaa Radoan confirmed she was involved in meetings from the time she was in the position of Co-ordinator. She was not aware of any meetings held to which the claimant should have been invited but was not. In the ET1 the claimant alleged that Dr Al-Tubuly asked Safaa Radoan to accompany her to these meetings "because she was intimidated". There was no evidence of this allegation.

70. The claimant considered that she was being excluded as "Unit Co-ordinator" of Women and Islam which was her role before sabbatical being the Unit she taught. She had been named as such in the programme for Autumn 2017 (J257- 287). In her absence Dr Drammeh had taken on that role and in the Programme for "Autumn 2018" was named as unit Co-ordinator. (J302-332). On return she and Dr Drammeh were to work on reviewing the programme to include proposals for new modules, possibly combining with another subject area and developing a new postgraduate programme. The exchange of emails over January/April 2019 (J342/343/345/348/349) showed that work proceeding. On 28 August 2019 Dr Drammeh sent the claimant an email with the unit outline for Autumn 2019 having deleted his name as "Unit Co-ordinator" stating that he had "updated the dates for the above Unit. Please see if you would want to make any further changes" (J525-557). The claimant in her evidence stated that this was intimidating of Dr Drammeh to have made any update to "her Unit" and "what was the point of changing dates" and as this occurred around the time of the first consultation on redundancy and she was not named as Unit Co-ordinator Dr Drammeh "must have known I was leaving" On 2 September 2019 the claimant sent to the admissions staff (copy to Dr Drammeh) the "updated unit outline for Women and Islam Unit" which named her as the Unit Co-ordinator for Autumn 2019. The Tribunal did not consider this matter disclosed either the claimant being side-lined or bearing the interpretation that the redundancy consultation was a sham with the departure of the claimant a foregone conclusion known to Dr Drammeh. It appeared that the claimant was being included in Dr Drammeh having removed his name as Unit Co-

ordinator from the previous document and seeking any changes from the claimant. That the name of Co-ordinator was left blank did not bear the inference put on it by the claimant. The Unit outline with her name as Co-ordinator was the one presented to the admissions staff.

5 71. In her ET1 the claimant maintained that she was excluded "without explanation or notice" from the "Marketing and Student Recruitment meetings" as from 7 August 2019. A meeting of that Committee took place on 8 August 2019 to which the claimant was not included (J431). In cross examination she accepted that at a meeting of that Committee in March 10 2019 it was decided that the Committee would be returning to its "original terms of reference" and so include "half the academic staff" and thereafter the claimant was not on this Committee. The academic members were then Dr Al-Tubuly and Dr Drammeh. She received the Minutes of the meeting. She made no complaint about this reformulation. The claimant 15 was included in an email of 5 August 2019 (J425) advising of advertising campaign for recruitment and email of 12 August 2019 (J432) sending the proposed "Recruitment Strategy" for 2019/20 and seeking comments. The Tribunal could make no finding that the claimant was "without explanation or notice" excluded from these meetings from 7 August 2019 given that 20 she was aware the committee had been reformed in March 2019 and she had not attended meetings since then. There was also evidence that she along with other academic staff not on the Committee were included for comment on recruitment strategy.

72. In the ET1 the claimant stated that she was excluded from a "Scholarship" 25 meeting on 28 August 2019 (J64) which Dr Drammeh attended. However there was no evidence given of that meeting.

73. While the claimant was sent the draft Strategy document on recruitment she was not included in the discussion on the strategic aims of the College identified at J433 to "grow as an internationally recognised centre of inter 30 – and multi – disciplinary study of Islam and Muslims in the 21st century". That wording had been there for some time and had been in place when Dr Godazgar was Principal. The programme intended to look at the overall position and considered the areas where student recruitment might be fruitful such as Islamic Finance seen as a target market. The claimant's

objection was that Islamic Studies was not specifically mentioned. The Tribunal did not consider that claimant was being side-lined on this issue. She had been sent the document for comment and it was emphasised it was a draft.

74. The claimant had not been included within an email from Amanda Percival of 16 August 2019 providing updated admissions figures for the academic session beginning Autumn 2019. Dr Rahmani was also not on the distribution list. Prior to sabbatical the claimant explained that she would have sight of such figures as Head of Department and would see the applications and again she was being side-lined. Dr Abubaker denied that he had instructed any exclusion of recipient. Those receiving the email were Programme Co-ordinators and Martin Dowling who had a role to play in the HNC/HND programme. The recipients of the email were consistent with the evidence on those were in the position of Programme Co-ordinators in August 2019.

75. The Tribunal could not find that there was any side-lining of the claimant from academic meetings given the evidence. There was a definite shift in the frequency of meetings and the Tribunal accepted that Dr Abubaker had sought to minimise the meetings which may have taken place prior to the claimant's absence on sabbatical. On return the Tribunal were satisfied that the claimant had attended College governance meetings. She did not occupy the position of Programme Co-ordinator for Islamic Studies on return and so was not included in the informal meetings arranged with Programme Co-ordinators. The Tribunal was also satisfied that the reason Dr Abubaker had more meetings with Dr Drammeh than the claimant was due to his position as Programme Co-ordinator subsequent to the claimant's return from sabbatical. The intent was that information shared with the Programme Co-ordinators was to be shared by them with colleagues and there was no plan to side-line the claimant.

Meetings of 11 January and 12 February 2019

76. Dr Sara Al-Tubuly was Chair of the Academic Quality and Standards Committee (AQSC) from around late 2017/early 2018 until August/September 2019. That committee usually met three times a term.

Meetings chaired by Dr Al-Tubuly took place on 11 January 2019 and 12 February 2019.

77. These meetings were attended by Dr Abubaker, the claimant and others. The claimant's position was that the behaviour of Dr Abubaker at these meetings intimidated Dr Al-Tubuly who became tearful and needed to "get a tissue and be brave - but intimidated". This evidence was in support of her position that Dr Abubaker had a very traditional and patriarchal attitude towards women and on a day to day basis was less respectful to women than men.

78. In her statement of claim she expressed the matter:-

> "The claimant's experience of working with (Dr Abubaker) is that he adopts a more traditional or conservative view – which embraces patriarchy, this was her view as she saw him treat women in a different way to men on a number of occasions, for example on two occasions AA was so harsh with a female Chair (Dr Sara Al-Tubuly) of an academic committee ('AQSC') during the meeting that she had to fight back her tears and eventually in the middle of one of the meetings she left to get tissues. She was demoralised to the extent that when later the position of the Chair of that committee was given to a male colleague she accepted that the position was too advanced for her and that she needs to get more experience. It was clear to the claimant that her lack of confidence was due to (Dr Abubaker) treatment of her rather than as a result of any lack of ability and that (Dr Abubaker) had targeted the Chair due to her gender."

And in the further and better particulars that "the dates of these two occasions are 11 January and 12 February 2019" and gave the attendees. (J15 and J62)

79. The evidence of Dr Al-Tubuly was that at the meeting of 11 January 2019 she had become emotional and was embarrassed at that. She advised that during the meeting there was a discussion on several items and would not wish to blame anyone for her upset. She stated that she was "under work pressure/personal pressure – meeting pushed me to be emotional –

if happened another day able to say ok – not because of any person – I had issues in the background – not crying – eyes watering and face red and sought to control myself and tried not to notice but colleagues did notice – I was not myself that day." She also disagreed with the suggestion that Dr Abubaker treated women differently than men. She had no experience of that. She also disagreed with the suggestion that Dr Abubaker was harsher with women. Her position was that he treated women and men the same. She agreed that after the meeting the claimant sought to comfort her. Dr Al-Tubuly confirmed that she met with Dr Abubaker every two weeks or so as she was Programme Co-ordinator and on occasion was accompanied by Dr Radoan who also occupied the position of Programme Co-ordinator in Arabic Studies.

80. She was asked if she was so demoralised by Dr Abubaker's treatment that she did not wish to carry on as Chair of AQSC and advised "no totally wrong – told from day one temporary and welcomed when came to an end – only fill in and was needing to be relieved of that position – was planning to leave that position." She agreed that Dr Abubaker could be direct if he disagreed with a particular matter but it happened all the time that people would agree or disagree. She advised that she was annoyed that she was emotional at that particular meeting of the committee.

81. From this evidence the Tribunal were not able to make any finding that Dr Al-Tubuly had been intimidated by Dr Abubaker at the meetings of 11 January 2019 or 12 February 2019 or indeed at any meeting involving Dr Al-Tubuly. The Tribunal found Dr Al-Tubuly to be straightforward and truthful in her evidence and did not consider that she was seeking to give any false account to protect her employment or because she was intimidated by Dr Abubaker. The Tribunal was unable to find evidence on this matter which might support the claimant's proposition that Dr Abubaker treated women differently from men. The complaint that Dr Abubaker intimidated Dr Al-Tubuly to the extent that she became upset was a misperception by the claimant.

Allegation that Dr Abubaker stated "We throw people on to the street"

82. As evidence of Dr Abubaker's attitude towards women the claim form stated that:-

> "Another female academic colleague (Ms Safaa Radoan) was told on more than one occasion by (Dr Abubaker) in threatening language that: 'we throw people on to the street'. This was during the former Principal's redundancy process. The claimant did not observe (Dr Abubaker) using such language or behaviour with male colleagues."(J15)

83. Dr Radoan advised that she had been employed by the respondent from April 2015 and resigned from her employment in October 2019. She was a Teaching Fellow in Arabic and Programme Co-ordinator in Arabic Studies. She intimated her resignation in writing to Dr Abubaker on 11 October 2019 and that intimation contained no dissent or concern at the way in which she had been treated by the respondent.

84. However, she submitted a further lengthy document to the respondent on 31 October 2019 (J70/74) which made various complaints about her treatment with the respondent. The particular allegation within the claim appeared under the heading "Creating Troubles Among the Arabic Language Staff" (J73) wherein it was stated:-

> "Last year I had some difficulties with my colleague (because of Head of College behaviour) and when I spoke to him asking to change my office for a while because of the tense atmosphere between both of us he tried hard to push me to submit a formal complaint against her otherwise he was unable to do anything for me. And always showed that he supported me by saying 'Tell me who is annoying you and we'll throw them in the street'. This expression is translated literally from Arabic, which we use when we want to get rid of something or someone. And of course as a team even if I spoke with my Line Manager about the problem I could not solve with my colleague, this does not mean I wish or want this colleague to lose her/his job."

85. In her oral evidence Dr Radoan indicated that she had had difficulties with Dr Al-Tubuly and had wanted to change her office and had gone to speak to Dr Abubaker about that matter. On that occasion she indicated that Dr Abubaker had refused to switch office for her and advised that she should be put in a formal complaint in the event there was a difficulty with Dr Tubuly.

86. Dr Radoan made several complaints that at meetings Dr Abubaker would "scream and shout at her". It was difficult to relate that to particular instances. It did not appear there were frequent meetings between Dr Abubaker and Dr Radoan when she was unaccompanied. When she was with Dr Al-Tubuly as Programme Co-ordinator there was no evidence of him "screaming and shouting" at those meetings.

87. Dr Abubaker's evidence was that there were one or two private meetings with Dr Radoan (and he advised that she had one or two complaints that she wished to discuss with him – one of them being the issue with Dr Tubuly) but he had never "screamed and shouted" at Dr Radoan or indeed any of the academic or administrative staff.

88. He had thought that he got on well with Dr Radoan having made arrangements for her Visa to come to the UK and described her as a "star". Her resignation came out of the blue. There was a difficulty it would appear over the notice given by Dr Radoan when she came to terminate her employment and wishing to leave earlier than indicated. That is referred to in her document on resignation (J70/71). Her resignation came very shortly after commencement of the autumn semester 2019 and Dr Abubaker was irritated by that as it would mean interruption to the programme and finding another lecturer. The respondent had never been asked for any references and no-one knew that she was in discussion at the beginning of the academic year with another institution. Given that she was sponsored under UKVI there would usually have been some liaison with the College to which she was to be transferred. Dr Abubaker's recollection was that she required to be at her new post earlier than intimated in her resignation.

89. In respect of this evidence the initial claim form related to an incident where Mrs Safaa Radoan was told by Dr Abubaker that "we throw people on to the street" and this was during the "former Principal's redundancy process". In the voluntary disclosure of further and better particulars the claimant was called upon to give the dates of the occasions along with any alleged witnesses of Dr Abubaker stating "we throw people on to the street" and the response was that these incidents are "referred to in more detail in Mrs Safaa Radoan's letter explaining her resignation dated 31 October 2019." That letter as indicated contained a reference to one occasion when Dr Abubaker allegedly used that phrase but not in respect of any previous Principal's redundancy process but in response to Ms Radoan indicating she did not get on with her colleague Dr Al-Tubuly and wanted to change rooms. The Tribunal were unable to make anything of this particular matter given the disparity between claim and evidence. In general terms they found that Dr Radoan's evidence was embellished and exaggerated. The Tribunal did not accept that on many occasions Dr Abubaker had "screamed and shouted" at Ms Radoan. They did accept that there was friction between them in relation to the resignation and her unexpected departure. The Tribunal did accept that Dr Abubaker would be irritated at that development but we did not accept Dr Radoan's evidence that he was against women, that he was patriarchal and biased against women generally or who displayed feminist views or women who were Shia Muslim or women who were Shia Muslims who displayed feminist views.

Appointment of senior lecturers

90. The claimant in her claim form indicated that she worked with two colleagues who were Senior Lecturer and was "singled out by not being promoted to Senior Lecturer during her nearly 9 years employment with the respondent because of her sex; when in practice she had the same and /or substantially more experience and publications than her male comparators…."

91. When Dr Drammeh was asked if he would return to the college following the claimant's absence on sabbatical he agreed to do so. At that stage he was already appointed Senior Lecturer/Associate Professor at the Muslim

College, London. He indicated that if he returned to work with the respondent he could not accept a demotion and he continued in his role as Senior Lecturer.

92. Dr Alija Avdukic was employed by the respondent as a Senior Lecturer in Islamic Finance from 1 August 2019. The respondent had advertised for a Senior Lecturer. Dr Avdukic had been Head of Department for Islamic Economics Banking and Finance on Islam and Sustainable Development at Markfield Institute of Higher Education, Leicester which was accredited by Newman University, Birmingham. He attended interview with a selection panel comprising representatives from Abertay and Dundee University. The panel were unanimous in the appointment of Dr Avdukic as Senior Lecturer amongst five/six candidates.

93. There was one further vacancy at that time in the area of Islamic Economics and Finance and that went to Dr Rahmani who was appointed as a Lecturer for a fixed term of three years with a termination date of the appointment of 31 July 2022.

94. In the period of the claimant's employment from February 2011 her husband, Dr Godazgar, was Director and Acting Head of School from June 2011 and Principal from September 2013 until sabbatical from October 2017. So while the claimant's complaint was that she had been "singled out by not being appointed Senior Lecturer" in her "9 years of employment" for a little more than 7 of these years her husband had acted as Head of College or she was on sabbatical and there was no evidence of any requests for promotion which were denied and it was unlikely that the reason for non promotion was due to her sex. Dr Drammeh had come into employment as a necessary replacement for the claimant while on sabbatical and already occupied a position as Senior Lecturer. Dr Avdukic was not appointed till August 2019 and by that time redundancy issues had arisen in Islamic Studies. The Tribunal did not consider that lack of promotion in the 9 years of employment was because of the claimant's gender.

Redundancy

95. The respondent was conscious that the numbers of students entering the course on Islamic Studies was poor and insufficient to sustain two lecturers. In the previous five academic sessions to April 2019 there had only been six graduated students. Loss of validation from Aberdeen University had been significant and drove the necessity to obtain validation from SQA. Dr Abubaker advised that normally he would look at budget in April/May each year and at that point in 2019 considered that with the low numbers of students enrolling it would be necessary to (1) review staffing and (2) revamp the programme to attract more students.

96. He prepared a business case for the Board who met on 27 June 2019. At that meeting (J367) the Board considered the business case presented by Dr Abubaker for rationalisation in the area of Islamic Studies. It was noted that student recruitment in the current advanced diploma programme was low and that while the Board regretted having to make a decision found it necessary to reduce the academic staff of Islamic Studies from two to one thus making one position redundant. It was considered that the respondent could no longer justify two full time academics within that subject area. It was agreed that the redundancy process should commence and that the programme should continue to be reviewed with a view to identifying potential validating partners. The decision to effect a redundancy was taken at the end of the academic year 2018/2019. At that stage numbers of students entering the programme for the academic year 2019/2020 were not available.

97. Reference was made to the projected table of students in respect of the advanced programme for Islamic Studies in the academic year commencing September 2019 (J431) which showed that as at 8 August 2019 of the 7 offers made 5 had accepted against a “target” of 4. None of the other courses offered had met their “target” at that stage. The position as at 8 August 2019 of accepted offers was not an indication of students who might attend the course at commencement of study. That may be for a number of reasons including Visa and funding.

98. The respondent engaged HR Booth as HR Consultants to guide them in the redundancy process. They were engaged late June/beginning July 2019.

99. The respondent took legal advice on who should be in the pool for redundancy and were advised that the pool should consist of the claimant and Dr Drammeh. By the time the decision had been made by the Board on 27 June 2019 to proceed with redundancy Dr Drammeh's contract had been renewed for a further six months. It was considered that there would be legal difficulties under the provisions for employees on fixed term contracts in the dismissal of Dr Drammeh without him being included in the pool for redundancy.

100. By letter of 1 August 2019 (J422) the claimant was advised that her position as Lecturer in Gender and Development was at risk of redundancy. It was indicated that due to the low uptake on the Islamic Studies programme the respondent no longer required to retain two full time members of staff in that area and therefore were provisionally of the view that her post may be redundant. The respondent wished to commence consultation on that potential redundancy and invited the claimant to a meeting on 6 August 2019 subsequently altered to 13 August 2019 to suit the claimant's union representative, David Wharrie of UCU.

101. The first consultation meeting was then attended by the claimant accompanied by David Wharrie and Dr Abubaker accompanied by Alistair Booth of The HR Booth. Notes were taken of that meeting (J442/445).

102. Dr Abubaker explained the business case for reduction of lecturers from two to one as demand on the programme was low. In the academic year 2012 large numbers of students had enrolled but since losing validation those numbers had declined. It was stated that the "numbers for new academic year showed 3 or 4 students subject to Tier 4 visa" and it was "clearly not sustainable having two lecturers run Islamic Studies programme with so few students". It was made clear that a parallel consultation was being run with Dr Drammeh.

103. At that meeting it was maintained by the claimant that the programme for Islamic Studies had not been promoted properly and had been allowed to decline. This was disputed by Dr Abubaker who indicated that it had been given equal prominence but there had been a decline in numbers of students wishing to enrol. A further consultation meeting was to be held to consider any alternatives to redundancy.

104. Following their meeting David Wharrie sent an email to Dr Abubaker and Alistair Booth on matters which he considered were relevant (J446). It was contended there was no redundancy situation as the programme on Islamic Studies was not being scrapped and was being delivered in the academic year 2019/2020. It was also stated by Mr Wharrie that he considered Dr Abubaker had lacked understanding in the meeting for the position of the claimant. He also questioned the timing of the redundancy given that numbers had been low for a while. Mr Wharrie indicated in his further response (J448) a view that a "high level decision has been made to scrap the programme because of these unsustainably low enrolment figures" and it "feels like this programme has been subject to a kind of managed decline …" to challenge the "genuine need for a redundancy at this time". That email was responded to by Alistair Booth (J448) who indicated that the redundancy arose because of the lack of students and not "due to the scrapping of the course".

105. The claimant also sent an email to Dr Abubaker of 16 August 2019 (J452) in which she wished to correct any impression that she had not developed units for inclusion in the new Islamic Studies programme. She attached an email to Dr Drammeh of 16 April 2019 enclosing the units developed by her for inclusion in the new programme.

106. By email of 20 August 2019 the claimant also sent to Mr Wharrie a statement of her "skills, qualification and experience" (J465/471). There was no evidence that this statement was passed to the respondent in the course of the redundancy consultation.

107. The second consultation meeting was arranged for 23 August 2019 but rearranged to suit the claimant's union representative to 27 August 2019 (J472/473). On 23 August 2019 the claimant was advised that following

the "successful summer school programme" the respondent had exercised discretion to pay a one-off bonus in the sum of £1000 which would be included within the claimant's August salary. That was noted to be a purely discretionary payment.

5 108. At the second consultation meeting on 27 August notes were again taken (J475/476). At that time Dr Abubaker acknowledged the claimant's abilities and contribution to the review process of Islamic Studies programme. He indicated that there was a vacancy in Islamic Finance and could share the details of that role if the claimant was interested. The 10 claimant gave background on her past experiences of programmes that she had delivered and developed and Dr Abubaker asked if there was a CV that could be shared to cover what had been described.

109. It was indicated that if there was no alternative but redundancy then there would be a need to use a "Redundancy Evaluation Form" (selection 15 matrix) and a copy of the proposed matrix was provided with the indication that "we'd welcome if you could come back to us with comments or suggestions to make it clear. The same with the vacancy your feedback on that would be appreciated."

110. The selection matrix had been devised in consultation with Mr Booth and 20 Mr Mullen of HR Booth with a draft being revised and amended and then presented at this meeting as the proposed selection matrix. (in line with J609). When asked who would score the matrix Dr Abubaker replied that this would be "done jointly" meaning between him and Alistair Booth.

111. There was a heated discussion at this meeting between Dr Abubaker and 25 David Wharrie on whether the matrix had been "tested against an equality impact assessment and in line with policy". The position of Dr Abubaker was that he had taken advice through ACAS and HR Booth on the selection matrix and that Mr Wharrie seemed "fixated on this issue of the Equality Impact Assessment" and for the respondent as a private concern 30 it did not apply. Dr Abubaker indicated that the respondent would check whether they required to comply with the need for an Equality Impact Assessment as a private concern rather than a public body but Mr Wharrie was insistent that the respondent was wrong in their approach. At that

meeting it was indicated that David Wharrie regarded Dr Abubaker's behaviour as "unprofessional and threatening" and that the claimant had decided "to take out a grievance of bullying and will be submitting this" and that the respondent would be "hearing from us around the grievance".

5 112. Dr Abubaker concluded the meeting by asking for details of the claimant's CV and to advise whether she was interested in the role in Islamic Finance.

113. By email of 27 August (J477) Mr Wharrie drew the respondent's attention to the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 stating that the respondent had a "legal duty to impact assess all HR policies for equality in line with" these regulations in order to guard against discrimination. He again asked that the respondent "furnish UCU with a copy of the Equality Impact Assessment (EIA) for the avoidance of redundancy policy and scoring matrix (sic). I note you said at the meeting that no such EIA exists. Please confirm this in your response to this email and also indicate how Al-Maktoum College plans to remedy this in order to comply with the public sector equality duty in Scotland?" He also made reference to this duty under reference to the respondent's Equality and Diversity Policy and asked whether any EIA had been completed by the respondent (J478/503).

114. On 28 August the claimant sent to Mr Wharrie her "meeting notes" being her notes of the meeting of the second consultation meeting on 27 August (J507/509) and further documents which set out her difficulties with the scoring matrix which she argued was "not objective and part of a rigged process". At the same time she sent an email to Mr Booth and Dr Abubaker sending as requested her CV and indicated that she had "looked at the redundancy evaluation form and I have some concerns about it that I will share with David first and he will communicate with you". (J510/523)

30 115. Dr Abubaker wrote to the claimant on 30 August 2019 (J557) referring to the consultation meeting of 27 August 2019 and stating that there had been identified "one potential vacancy and we will send this to you for your consideration. It would be helpful if you could let me know by Tuesday 3

September 2019 if this role is of interest.” The alternative role being put to the claimant was for a Lecturer in Islamic Economics and Finance. The particulars of that role were sent to the claimant on 30 August 2019 (J559/563). Additionally it was stated:-

> “We also shared a draft of the selection matrix we intend to use if we are unable to find an alternative to redundancy. We asked for comments on this to allow us to finalise the scoring matrix and therefore I would appreciate if you could confirm whether you do have any comments on this proposed scoring matrix and send these to me by 5pm on Tuesday 3 September 2019.”

116. It was proposed that a third consultation meeting would take place on Thursday 5 September or if unsuitable 10 September 2019. The claimant was asked to advise which date might be suitable.

117. There was no evidence that the documents sent to Mr Wharrie by the claimant on 28 August 2019 were sent to the respondent namely her concerns on the scoring matrix and the claimant’s meeting notes of the consultation meeting on 17 August. (J505/506 and J507/509).

118. By email of 30 August 2019 (J564) the claimant intimated to Alistair Booth with a copy to the respondent’s Chairman that she wished to raise a grievance because she had “experienced discrimination as an employee of the college based on my gender and other issues that I have been associated with”. She indicated that she had been “bullied and intimidated variously and over time by Dr Abubaker” to the detriment of her health with the last and “cruel attempt” being an “unfair redundancy process”. She advised that she had “no doubt that I have been treated less favourably than other colleagues at the College since I came back from sabbatical leave in January 2019”. She advised that she would submit more detail of her grievance and sought a meeting. That email was acknowledged by Mr Booth on 2 September (J599) who stated that he would be “in touch regarding next steps – it would be helpful if you could forward over the details of your complaint and we can arrange to meet soon”. The claimant responded by email of 3 September 2019 (J598) indicating that she was in the process of putting together the details of her complaint which would

be forwarded by the end of the week. She also referred to an email from Dr Abubaker regarding the post in Islamic Finance and stated that she did not see the logic of having to make a decision by 3 September and noted that the deadline for the post was 16 September 2019 and would take that time to decide. Her union representative was not available for a meeting of 5 September but would be available 10 September early afternoon. She also indicated that "regarding the scoring matrix both David and I have some concerns. We will try to share our concerns with you two as soon as the end of this week".

119. On 3 September 2019 Dr Drammeh sent an email to Dr Abubaker indicating that he was not interested in the possible vacancy in Islamic Economics and Finance. He also indicated that he would wish to reschedule his proposed follow up meeting on redundancy.

120. There was also a discussion at this point between the claimant and David Wharrie of UCU regarding concerns on the scoring matrix (J601) but no concerns expressed to the respondent at this stage.

Incident of 3 September 2019

121. Subsequent to the second consultation meeting of 27 August 2019 and the claimant indicating that she wished to raise a grievance involving Dr Abubaker, she attended a workshop on 3 September 2019 along with other academic and administrative staff and facilitated by an external adviser. The context was to consider restructure of governance at the College which it was felt had become cumbersome. The attendees were asked by the facilitator for their views on a proposed set up of Boards of Studies and the like. When it came to Dr Abubaker's turn he talked of the need to make use of "scarce resources in a more efficient way". The claimant's position was that in a "harsh tone" he had talked of "lean management" and "the need to get rid of waste". Given his tone of voice and that this meeting came shortly after the meeting on redundancy of 27 August 2019 and she felt she had been "side-lined" she considered this comment was directed at her meaning that she was the one who Dr Abubaker wished to be "eliminated". She felt that at the time of the meeting but after the meeting a colleague advised that Dr Abubaker had

been looking directly at her when he made this comment which reinforced her view that she was being targeted.

122. The position of Dr Abubaker was that the context of this remark was in the context of him expressing a view that there was a need to streamline processes and this comment was always about the process and not about people. His recollection of the meeting was that the chairs were placed in a "horseshoe arrangement" with him sitting at the end and so had not been looking at anyone directly but looking forward.

123. Dr Drammeh attended this meeting and he confirmed the subject was governance and could not remember Dr Abubaker saying that there was a need to "get rid of waste and eliminate" but did remember that he spoke of the need to be more efficient and that the word "waste" was used in the context of management. He thought that Dr Abubaker was sitting at the front facing the facilitator and that Dr Velayati was behind Dr Abubaker when he made these comments.

124. Safaa Radoan was not asked about this meeting and it is not known if she attended. Dr Al-Tubuly had no recollection of this incident.

125. The claimant may have had a perception that Dr Abubaker was directing remarks at her when he talked of "waste" but the Tribunal did not consider that the remarks were directed at her from the evidence heard. It seemed to be the case that Dr Abubaker was position in front of the claimant when he spoke and the Tribunal could not see how a colleague would have said that he was looking directly at her at the time. In any event the subject of the meeting was governance and how to streamline and make it more efficient and the Tribunal could not find or infer the remarks made in that context were directed at the claimant.

Continued redundancy process

126. By further email of 6 September 2019 from David Wharrie to Alistair Booth (J603) further detail was given of the grievance being raised by the claimant being:-

"• Bullying: Our member has been subject over time to conduct which constitutes bullying at the hands of Dr Abubaker.

- Victimisation: Our member has been subject to victimisation by association i.e. because of her association/relationship with her husband, a former employee of the college, who left the college early 2019.
- Selected as being at risk of redundancy: unfair/not proper process includes managed decline of the programme our member teaches (as well as a flawed and bias scoring matrix)
- Direct discrimination: protected characteristic biological sex/gender (Equality Act 2010) – a series of questions will shortly be put to the employer in line with attached ACAS resource on statutory practice requiring a formal written answer to each (and evidence of equality impact assessments necessary as proof of compliance with public sector equality duty in Scotland)."

127. It was also stated that "as agreed" the planned consultation meeting for 10 September 2019 would be set aside and rescheduled and a request made that Dr Abubaker step back from further consultation meetings due to the allegation of bullying.

128. Dr Abubaker carried out the scoring exercise in terms of the matrix on 9 September 2019 and on 10 September 2019 sent an email to the claimant and Mr Wharrie (J613) advising that following the request from the claimant the next planned consultation meeting would take place on Monday 16 September 2019 at 2pm. He also advised:-

"During our last meeting on 27 August you have stated that you have had some concerns about the scoring criteria and would send me your comments and views on this. So far you have failed to send me these comments or alternative suggestions. I have reviewed the scoring criteria further and considered the views of the other affected colleague and I have formed the view that the planned criteria are fair. I have also taken legal advice about the scoring procedure and have formed the view that this is fair. Therefore I have scored affected employees using these criteria and can now share the scores with you as per the attached."

129. Dr Abubaker scored the matrix for the claimant and Dr Drammeh himself. He shared that outcome with Mr Booth. The claimant was sent the scoring matrix with scores and no comment attached (J609) and Dr Drammeh sent his matrix at the same time again without comment (J610). The score for the claimant totalled 38 and for Dr Drammeh 42.5.

130. Dr Abubaker also advised in this email of 10 September 2019 that as concerns had been raised about him he “would not propose to attend the final consultation meeting and instead Alistair Booth will chair this. Alistair will report back to me any alternative suggestions you have to redundancy”. It was also stated that in relation to the claimant’s grievance that would be heard separately and arrangements would be made for a hearing. At that stage the claimant was still to submit specific detail of her grievance.

131. An email to David Wharrie of 9 September from Alistair Booth sought further specific information. While it had been stated that a grievance would be following no detail had been given. Also feedback was awaited on the scoring matrix and none had been forthcoming. There was a concern that the redundancy process also affected Dr Drammeh and further information would assist in deciding the best way to proceed. Dr Drammeh had made no comment on the scoring matrix.

132. By email of 12 September 2019 David Wharrie on behalf of the claimant advised Alistair Booth (J614-615) that given the issues in the grievance it was not appropriate to proceed at all with the redundancy process and stated “for example the fact that there is bias built in to the scoring matrix, bias which does not favour our member, needs to be addressed and the fact that there exists no equality impact assessments for either the scoring matrix or the redundancy policy”. He also indicated that it would not be fair for the decision maker to proceed with allegations of bullying and victimisation being made against him.

133. It was stated that the concerns for the scoring matrix were

- “Not comparable to the ACAS standard
- Not equality impact assessed

- No column for detailing objective evidence in support of scores
- Some criteria too vague and not objectively measurable e.g. teaching related issues, effectiveness, building up subject area of Islamic Studies
- Qualifications experience attendance and disciplinary/conduct missing?
- Weighting – method and rationale?
- Did the matrix go out to consultation e.g. with employee reps and/ or trade unions?"

134. In a further email of 12 September 2021 (J648) Mr Wharrie sent the information prepared by the claimant on why she considered the matrix flawed (J649/650).

135. In cross examination Dr Abubaker was asked why he had proceeded to score the matrix when he was aware that a grievance was likely to be lodged against him and he responded to the effect that there was no one else who could carry out the scoring and that there was no other decision maker and the claimant "knew that very well". She was aware that if "raise grievance against me then she knows impasse – so I stepped back until outcome of grievance known – if suggested someone else considered - but no one else and that's why she raised the grievance".

136. Communication continued between Mr Booth and David Wharrie regarding the grievance and redundancy process. In an email of 13 September 2019 Mr Booth advised Mr Wharrie that there was an intention to proceed with the final consultation meeting and to hold the grievance meeting separately. By that stage the grievance had been lodged in detail (J643/647). By email of 13 September Mr Wharrie objected to the redundancy proceeding particularly where the scoring matrix has been questioned in the formal grievance. It was stated that the claimant was "disinclined to attend another redundancy consultation meeting until and unless the grievance is investigated and heard …" (J653). On 16 September 2019 questions were asked of David Wharrie (J656) as regards whether the claimant had identified any alternatives to her post being made redundant; why the decision to select her was unfair

and whether she would suggest any alternative scoring in the matrix which had been sent to her. Responses were given by the claimant (J659/661) being in essence:-

(a) While the Islamic Studies programme was running there was no justification for the redundancy and both academic staff should be retained as it could not be run by "one staff alone". The claimant was a specialist in Woman and Islam which was one of the compulsory units in the programme. That would undermine the quality of the programme. Since the programme had been offered and the students had been recruited justification for redundancy was removed.

(b) It was maintained that the decision to make the claimant redundancy was personal rather than business related for the reasons highlighted in the grievance. It was stated that the claimant had been subject to victimisation due to her marital relationship to the former Principal, Professor Godazgar. It was submitted that albeit two staff had been identified as at risk of redundancy Dr Drammeh was only put at risk to divert attention from the real issue as a decision had already been made that the claimant was to be made redundant. She had been excluded from "every academic related meeting and activities for weeks before informing her of the redundancy". Dr Drammeh had been given authority to update the unit of Woman and Islam and had not identified the Unit Co-ordinator. The programme had been managed into decline. Concern had also been raised as to the scoring matrix and detail was given as to the shortcomings in the matrix (J660/661) and because of those shortcomings the claimant questioned the credibility, validity and reliability of the scoring. It was open to a biased decision being made and it was clear this was a "rigged process" deliberately set up to disadvantage the claimant.

(c) It was not the claimant's responsibility to suggest an alternative scoring in the matrix and that suggestion reveals the "level of contempt that the college has towards this process" and the claimant. It was suggested that missing from the matrix were output/publications and those should have been a main criterion in their own right divided into various

categories and that certain indicators required proper definition (J661/662).

137. The redundancy process was then paused pending resolution of the claimant's grievance.

5 *Grievance*

138. A member of the Council, Graham McKee agreed to chair the hearing to consider the claimant's grievance. He was to be accompanied by another College Council member Jill Shimi and John Mullen of The HR Booth was to be present as HR support. The role of Mr McKee and Ms Shimi as
10 panel members was to seek to resolve the grievance and conduct any investigation required. They were to meet with potential witnesses identified by the claimant. A written outcome was to be provided.

139. The grievance that the panel required to consider was as detailed by the claimant (J643/647). Broadly the issues raised by the claimant in the
15 grievance related to promotion (failure to promote her to Senior Lecturer): bullying and intimidation (concerns over the TeLSEC meeting of 15 January 2019; colleagues are afraid of communicating; meeting of 3 September 2019 when Dr Abubaker wanted to get "rid of waste" which the claimant considered was directed at her); being "side-lined" from
20 academic decisions (meetings reduced and replaced by informal meetings to which she was not invited; non acknowledgement of contribution to development of Programme and Unit; not being included in emails; not being involved in decisions on teaching by Dr Drammeh); Dr Drammeh displaying a book on "Women in Islam" after redundancy intimated:
25 possible collaboration with University in Dublin and no offer in that respect made; resources (not being given adequate laptop; changed office without consultation); training and conferences (not paying travel and accommodation cost for conference; not being reimbursed registration fee; not being allowed to attend free training event in Dundee).

30 140. By letter of 18 September 2019 the claimant was invited to a meeting on the grievance on 23 September 2019 (J654). Given the unavailability of Mr Wharrie of UCU a request was made to reschedule that meeting and

the proposed hearing date of 23 September 2019 was vacated. The panel took the opportunity to ensure they had understood the detail in the claimant's grievance and consider what alternative date could be offered.

141. By email of 23 September 2019 (J663) UCU were advised that the hearing was rescheduled for 4 October 2019 at 10:00am. There was no response from the claimant or UCU and by email of 25 September 2019 (09:54hrs) (J667) Mr Mullen advised that Mr McKee had omitted to note a prior engagement for the intended grievance meeting date and that it would be rescheduled to Tuesday 8 October 2019 at 10:00am. This was met by a request from UCU that the date be changed from 8 October 2019 as David Wharrie would be on annual leave that week. Dates within the week commencing 14 October 2019 were sought (J667). On 30 September 2019 (J666) UCU were advised that given difficulties with the diaries of the panel members for future dates it would be necessary to hear the grievance on 8 October 2019 at 10:00am and that if the claimant was unable to attend that rescheduled grievance meeting on that date/time then matters would require to be determined in her absence. Mr McKee explained that he had liaised with Ms Shimi as to availability to find that their diaries were very busy over the following period and they felt it important that the matter be heard as soon as possible. The panel noted the terms of the respondent Grievance Policy which indicated the right to be accompanied by a trade union representative but that representative could not answer questions on behalf of the employee. The policy also advised that the employee and representative should make every effort to attend the grievance meeting (J202/204).

142. By email of 30 September 2019 Mr Wharrie explained the difficulties with the intended date of 8 October 2019 and requested a postponement (J665). Mr Mullen responded by email of 1 October 2019 (J671) advising that having noted the availability of the panel members it was not possible to reschedule the date and time of the grievance hearing which would take place on 8 October 2019. He was asked to contact Mr Mullen by 4pm on Monday 7 October 2019 "to advise me if your member intends to attend this meeting". It was stated that if the claimant chose not to attend a meeting then additional information could be forwarded for the panel to

take into consideration again by 4pm on 7 October 2019 (J671). There was no response to that email and the panel gathered to consider the grievance on 8 October 2019. Given there had been no response to the email of 1 October 2019 the panel expected that the claimant would attend along with her representative.

143. However, no appearance was made. Mr Mullen spoke to a member of staff and ascertained that the claimant was in her office and so went to speak to her. He advised her that the meeting was going ahead and was she to attend and the claimant "seemed surprised at that". Mr Mullen asked if Mr Wharrie was to be there and if not if she wanted to attend on her own. The claimant's reaction was that she had been instructed not to attend unaccompanied and so could not go ahead with the meeting. The claimant asked if the meeting would go ahead in her absence and Mr Mullen confirmed that it would.

144. There was some dispute regarding this conversation between Mr Mullen and the claimant. The claimant agreed that she did not ask for any postponement of the meeting but said that she had been strongly advised not to go ahead without union representation. She claimed that Mr Mullen said that he understood and she could always appeal. Mr Mullen did not recollect indicate saying that "he understood". Mr Mullen had no recollection of that part of the conversation. It did not seem necessary to resolve that particular conflict as Mr Mullen returned to speak to the panel members who decided to proceed with the meeting in the absence of the claimant.

145. The claimant's position was that she had not known about the email of 1 October 2019 and had assumed that the meeting was not to proceed as she had no word from Mr Wharrie.

146. The panel decided that they should proceed with the grievance hearing. They considered they had a good body of information contained within the detailed grievance document and had organised witnesses they could question on the matters raised. There were particular problems of arranging a future meeting. The panel considered there had been a reasonable opportunity offered for attendance.

147. The panel proceeded with the grievance. The panel considered that the issues around the scoring matrix were part of the redundancy process and did not consider them as issues within the grievance.

148. Notes were taken of the hearing and of the interviews with witnesses. (J673/691) and included notes regarding the non-attendance of the claimant or union representative. The note of the conversation with the claimant on the morning of the grievance hearing was stated as:-

> "With the non-attendance of Dr Velayati or her union representative at the meeting John Mullen on being made aware that Dr Velayati was in college met with her in her office at the college at 10:20am to ascertain if she intended to attend the meeting today. Dr Velayati advised him that she would not be attending as she had not (been) informed by her union representative that this meeting was proceeding today. When John informed Dr Velayati that having postponed the meeting previously the intention was for the meeting to proceed today she was offered the opportunity to attend. Dr Velayati declined to attend the meeting and she did not wish to attend unaccompanied. Dr Velayati's apologies for the meeting were noted."

149. The committee determined to interview witnesses and make a decision based on the grievance submission and further evidence gathered in the course of the interviews. The notes indicate that the claimant presented evidence at 10:54am but this related to the scoring matrix and "was not considered to be relevant to this grievance, instead this was evidence in relation to the redundancy process which is a separate matter." (J675). The document handed in to the hearing at that time was the document the claimant had prepared giving her concerns on the scoring matrix (J649/650).

150. The panel noted for itself the issues they would wish to explore (J673/678). The grievance panel then interviewed Dr Abubaker (J679/685); Dr Alhagi Drammeh (J686/689); Lynn Osborne-Moore, Events Co-ordinator with the respondent (J690); Erin McHardie, Receptionist (J691). It was explained that the reason for interviewing Lynn Osborne-Moore and Erin McHardie was that there were issues of gender within the grievance and

approachability of management and the panel wished to hear from female members of staff to give their view of the culture and whether there was an atmosphere of bullying and intimidation. They did not find that to be the case.

5 151. The claimant did email her union representative on 8 October indicating that the grievance had proceeded in her absence and received a response on 14 October 2019 from Mr Wharrie indicating that he had not seen any response to his email of 30 September 2019 and so did not know that the hearing was proceeding on 8 October 2019.

10 152. Subsequent to the conclusion of the hearing on 8 October 2019 the panel did not consider they needed to see further witnesses and discussed the matter at some length. They wished to see the transcripts of the evidence before coming to any confirmed view and those were forwarded to the panel members on 21 October 2019 (J693). Subsequent to receipt of the 15 transcripts the panel further discussed the matter and prepared their outcome letter which was sent to the claimant on 6 November 2019 (J701/710). This letter was in detailed terms summarising the grievance raised and the outcome in italics. They did not uphold the grievance raised by the claimant on the issues of promotion; bullying and intimidation; being 20 side-lined from academic decisions; lack of resources (room and computer); and training and conferences. The claimant was advised that if he wished to appeal those findings then she could do so within seven days by writing to Lord Elder. That outcome letter was acknowledged by Mr Wharrie who was disappointed that the panel had reached the view in 25 the absence of the claimant and was concerned that there was no consideration or reference to the "balance of probabilities test" and that there was little doubt an appeal would follow (J712/713). By letter of 11 November 2019 the claimant appealed the grievance outcome and set out the grounds of that appeal (J715/724).

30 *Conclusion of redundancy process*

153. On 20 November 2019 Mr Booth emailed the claimant and Dr Wharrie (J732) advising that now the grievance had been determined the respondent was keen to determine the proposed redundancy given that

the first advice on redundancy had been intimated on 1 August 2019. It was proposed that a meeting take place on 29 November 2019. Although the decision would ultimately be determined by Dr Abubaker he would not attend the meeting. It was stated that Mr Booth had advised Dr Abubaker to take into account the following documents.

> "David Wharrie's email to me dated 6 September 2019 (J603)
> David Wharrie's email to me dated 12 September 2019 (J614/615)
> Your two page letter entitled 'some observations on the redundancy evaluation form' dated 12 September 2019" (J649/650).
> David Wharrie's email to me dated 13 September 2019 (J653)."

154. This was met by an email from Mr Wharrie of 22 November 2019 (J736/737) indicating that the appeal process should conclude prior to any restoration of the redundancy process. Mr Booth advised by e-mail of 26 November 2019 that it was the intention to proceed with the final consultation meeting but that the date would be altered to 4 December 2019 to suit Mr Wharrie's diary. It was noted that the Agenda for the final consultation would include the matters raised in the documents narrated above.

155. By e mail of 2 December 2019 the claimant was asked if she intended to attend the proposed meeting of 4 December 2021 and advised what the proposed agenda would cover. The claimant had been previously advised by email of 26 November 2019 that the consultation meeting would cover:-

> "bullying,
> victimisation,
> unfair/not proper process,
> direct discrimination,
> scoring matrix not 'fit for purpose',
> example in recent years of spouses being unfairly dismissed,
> redundancy evaluation form
> and HR policies."

That email was copied to David Wharrie (J746/747). The claimant advised that she would be attending the meeting with her representative and that

she wished to ensure that her "written responses to questions" (J659/662) sent with email of 20 September 2019 would also be included.

156. The final consultation meeting was attended by the claimant and Mr Wharrie along with Mr Booth with Lisa Weir taking minutes (J752/760). The meeting covered issues of alleged bullying by Dr Abubaker and it was confirmed that the grievance would not have been lodged if the redundancy process had not begun and was "tied together" with the behaviour of Dr Abubaker at the consultation meeting of 21 August 2019. So far as victimisation was concerned it was indicated that this was a "legal term" and occurred where an employee had made a "protected act" and suffered "detriment" as a result. Clarification of the "protected act" was requested. Mr Wharrie indicated that he had raised a complaint "with the ACAS recommendations …" but as yet had no response and referred to the "protected characteristics". The claimant advised her CV compared with Dr Drammeh's CV was superior and she had not been offered the role and had to draw her own conclusions. It was confirmed that there was a complaint being made of direct discrimination because of gender and that Dr Alhagi Drammeh had openly displayed a copy of the book "Women and Islam" on his desk and "why else would he have this unless he was told he was going to teach it" meaning that he was being favoured in the redundancy process.

157. Discussion took place on the scoring matrix and the assertion that it was unfair. It was stated by the claimant that it was "unreliable because it is so vague" and it had not been prepared by an "academic person and some questions were biased". Mr Wharrie considered that the matrix had been rushed for the purpose of the College covering themselves but without measure or care for objectivity and impartiality in the process. Mr Booth advised that the respondent had sought to combine a mixture of the ACAS Guidance and their own factors. The college did not have to comply with an Equality Impact Assessment and in his experience it was common to use a mixture of objective and subjective criteria. The claimant advised that she had raised the points of concern over the matrix but had not had any response. The claimant was shown her matrix with the comments made by Dr Abubaker when he conducted the scoring (J761/762). She

was asked if she would score herself differently on the matrix. There was discussion on the scoring matrix (J754/757) and Mr Booth noted on the matrix at the meeting matters of concern on her scoring and that of Dr Drammeh (J761/762).

158. The claimant questioned if the course could be run with only one academic member of staff and Mr Booth confirmed it was the College view that was the case and that the number of students for the academic session 2019/20 meant that a staff /teacher ratio of 1:2 was not tenable. Again it was maintained for the claimant that the Islamic Studies programme had been put into a "managed decline".

159. It was confirmed that if redundancy ensued for the claimant then she would be entitled to appeal that outcome.

160. Thereafter Mr Booth reported to Dr Abubaker on the final grievance hearing including the comments made on the scoring matrix/redundancy evaluation form and Mr Booth assisted Dr Abubaker in the outcome letter to the claimant of 10 December 2019 (J765/767). That confirmed redundancy with effect from 20 December 2019 with the remainder of the claimant's notice (two months and 21 days) being paid in lieu. The claimant would be paid a redundancy amount of £6300 being the statutory entitlement. She was also to be paid for holidays accrued but untaken to 20 December 2019. She was advised she had the right to appeal against that decision to Lord Elder. On the issue of the scoring matrix it was stated that while it was accepted there was a "mixture of objective and subjective criteria, we are satisfied this has been designed fairly". It was noted that in some areas the claimant had scored higher than Dr Drammeh and the scoring would stand.

Scoring exercise

161. In the scoring exercise conducted by Dr Abubaker he considered the CV of both the claimant and Dr Drammeh, the documents available on student feedback as well as course development and his knowledge of the candidates. He scored the candidates "one by one" on the criteria. The "weighting" which was attached to each criterion was not to adjust the

scores but simply to identify the importance of a criterion to the College and in general "teaching was more important than research". He explained the conclusions reached.

Teaching

5 *Feedback from students*

162. In this criterion scoring was based on feedback from the SQA programme over the previous years as taught by the claimant and Dr Drammeh. Previous feedback forms were not available as explained later and in any event those forms referred to a time when teaching was at Masters level
10 and on different subject areas.

163. With only six students in five years the feedback was not extensive. Feedback was looked at across all units and for the claimant was "mixed" with some good feedback and others "not so good". The claimant scored 2/3 on this criterion.

15 164. Dr Drammeh had "generally good feedback". He had taught more units and it was possible to get a better idea of his performance as a teacher. His feedback was better as a result of the breadth of knowledge and in teaching more units and so received 3/4 on this criterion.

165. If he had seen the previous feedback forms he would have given the
20 claimant "at best" the same mark as Dr Drammeh ie 3/4.

Teaching related issues

166. On this criterion Dr Abubaker considered how the candidates had used resources including technology in their teaching. He considered that both had the "right skills". He considered that given the broader range of
25 teaching available to Dr Drammeh then he was slightly ahead of the claimant. He taught more units. The claimant scored 3 and Dr Drammeh 3/4.

Course development

167. Dr Abubaker was aware that Dr Drammeh had contributed to the MLitt on
30 Islam as validated by Aberdeen University. He considered all the units in

the programme. He knew that the claimant had been instrumental in development of the gender and politics programme with Aberdeen University around 2011/2012. He was aware that both had contributed to the Woman in Islam programme for SQA level and that there was an ongoing update of that programme by both. He considered that it was fair that each scored 3.

Suitability of new areas of development (e.g. Islamic Finance)

168. This criterion was there because Islamic studies on its own had not proved sustainable and it was necessary to consider development in other areas and the ability to contribute. It was part of the effective use of resources. Finance was one of those areas. Others were management and leadership for HNC/HND Business and HNC/HND Management and Leadership. The claimant had no management/leadership skills at that point. The second PhD of Dr Drammeh was in International Relations and Dr Abubaker was aware that he had contributed to teaching in related areas of Islamic Economics and Finance such as Political Economy and Philosophies of Economics in Islam. The claimant scored 2/3 and Dr Drammeh 3/4 in respect of this criterion.

Administration

Performance

169. Neither candidate had issues in respect of this criterion and each scored 3.

Effectiveness

170. On this criterion it was considered that Dr Drammeh had "room for improvement" in this area and seemed to find administration "challenging at times" whereas the same was not true with the claimant and so she scored 3 against Dr Drammeh's score of 2/3.

Decision making

171. It was considered that the claimant was "hesitant about decision making" and could be more positive. While getting other views was consultative her decision making was not as effective as it might be.

172. On Dr Drammeh he considered that while there was again room for improvement he "made a decision and stuck with it" and so the claimant scored 2/3 and Dr Drammeh 3 on this criterion.

Student recruitment

173. On this criterion it was considered that both could have done more in relation to promotion of student recruitment and each received 2/3.

Research

Output/publications

174. Dr Abubaker considered that the claimant had a good record in publications. She had published mostly in the area of gender and development but with a very good output and so scored 3/4.

175. Dr Drammeh on this criterion was good but not as good or as extensive as the claimant. On the other hand he had a reasonable record in the study area of Islamic Studies. He scored 3.

Supervision

176. On this criterion Dr Abubakar considered that Dr Drammeh had considerable experience acting as a supervisor. He had acted as first or second supervisor to at least 20 PhD candidates and supervised over 20 MLitt dissertations. He had also successfully supervised at the MA and PhD levels in the areas of Islamic Studies and Social Sciences. It was considered that he was highly regarded as an examiner of PhD candidates across the UK. He did not consider that the claimant had the same abilities in this area. The claimant received a score of 2 in this area as compared with Dr Drammeh of 4/5.

External funding: Applications and success

177. In each case there was limited evidence of involvement in any external funding applications and each candidate received 1/2 in this respect. This criterion was of low importance.

Building up subject area of Islamic Studies

178. This criterion was there because it was necessary to develop and include within the subject areas contemporary issues as they arose to reflect changes in society and relations between countries so that the course was more appealing. It was recognised that the claimant could build and develop her own specialist subject area but perhaps not in the wider range of units. Dr Drammeh had the ability to be wider in his subject area development and both scored 3.

Other

Knowledge

179. Each candidate was knowledgeable and articulate in different aspects of the programme. No problems were identified in this area and so each received the score of 3.

Skills

180. Again each candidate had good general and analytical skills and each received a score of 3.

181. After completing the scoring exercise for each (J609 and J610) Dr Drammeh scored 42.5 and the claimant 38 on the criteria. By e-mail of 10 September 2019 the claimant was sent the scored criteria.

182. Dr Abubaker had also amplified the criteria with his comment on each candidate but those forms were not disclosed to the candidates at that time (J608 and J611/612). As noted above the claimant did see and commented on those forms in the final consultation meeting

Appeal against dismissal and grievance outcome

183. The claimant appealed against that redundancy decision by letter of 16 December 2019 to Lord Elder (J771/780) which gave detail of the grounds of appeal. The claimant advised that the basis of redundancy was unfounded and the process and decision unfair and biased including:-

- That she had been teaching one of the core courses (Woman and Islam) and contributed to the Research Methodology unit for a full term. Woman and Islam was a core course that no-one else at College was qualified to teach.
- No satisfactory response had been received from the respondent about the scoring matrix and her concerns on that.
- If there is a redundancy situation she was better qualified and more experienced than Dr Drammeh
- The final decision was taken by Dr Abubaker who faced serious grievances.

Appeal hearing on redundancy and grievance

184. The combined appeal on redundancy dismissal and the grievance outcome was set to be heard on 10 January 2020 by Lord Elder. It was suggested that firstly the appeal against dismissal would be considered and then the appeal against the grievance outcome (J787). That email setting the meeting suggested an agenda of issues in respect of each appeal being:-

"Appeal against dismissal

- Bullying
- Victimisation
- Direct discrimination
- Examples in recent years of spouses being unfairly dismissed
- Unfair/not proper process
- Scoring matrix
- Redundancy evaluation form
- HR policy

Appeal against grievance outcome

- Failure to act independently
- Promotion
- Bullying and intimidation
- Resources
- Training and conferences"

185. Lord Elder advised that he intended to Chair the appeals and if there was any further issue which the claimant wished to raise that could be discussed at the hearing. It was intended that John Mullen of HR Booth attended to take notes.

5 186. At the meeting both the claimant and Mr Wharrie had statements to read out in respect of issues which they considered to be relevant to the appeals. David Wharrie read out an appeal statement(J791/794) and the claimant read out her statement (J795/799).

187. John Mullen took notes of the meeting which were subsequently produced
10 (J800/813). The meeting lasted from 11:36am until 4:00pm.

188. On 21 January 2020 Mr Wharrie asked for an update regarding completion of the minutes of appeal and those were sent to him on 3 February 2020. It was indicated that Lord Elder would issue his outcome on the appeals in early course.

15 189. By e-mail of 10 February 2020 David Wharrie returned the minutes with some proposed changes by the claimant inserted (J823/8341). Lord Elder made some enquiry with Dr Drammeh and Mr Alistair Booth and received responses (J842/843 and J846/847).

190. The outcome of the appeal was intimated on 5 March 2020 (J852/856).
20 The decision was that the redundancy stood and that the outcome of the grievance decision was also upheld.

Meeting between Lord Elder and Dr Godazgar

191. Lord Elder was in Dundee at the end of the "summer school" in June 2019. By that time Dr Godazgar had left college as Principal. Lord Elder had
25 liked him and arranged to meet him at the Apex Hotel on 29 June 2019. The purpose of this was something that Lord Elder thought was "nice to do and to have a chat".

192. There were two versions of events. The position put by Dr Godazgar was that at this meeting various things were discussed and during the meeting
30 Dr Abubaker appeared in the Apex Hotel and spotted this discussion and left immediately. At conclusion of the meeting Lord Elder had indicated to

Dr Godazgar that if he was in London and wished to have lunch it might be convenient to do so at the House of Lords. Then the claimant was invited to the first consultation meeting on 1 August 2019. Dr Godazgar contacted Lord Elder and asked him if he was aware that the redundancy consultation had commenced and he said "What?" and "Bloody hell I didn't know". Lord Elder apparently said to Dr Godazgar that he "would get back to him" but did not do so and while he made repeated attempts to contact him, obtained no response. He then sent Lord Elder a text (J1011/1012) which indicated that he hoped that he wasn't being ignored and "you well know that Masoumeh is unfairly paying the price for the amicable meeting between you and me the other day. I had not asked for that meeting and accepting your request I had emphasised on the quietness of the venue which was obviously not taken seriously. They want to punish me and you because of this meeting by making poor and innocent Masoumeh redundant. I expect that you will at least stand up for justice this time. As I said in my message left at your answering machine yesterday, we can talk to address this issue before anything undesirable happens. I will not contact you any more but I will be available to talk any time if you feel that I can be helpful. With warmest wishes."

193. Dr Godazgar's view was that Dr Abubaker having seen him in discussion with Lord Elder would think that Dr Godazgar was going to be promoted to Head of College over him and thus wished to ensure that the claimant would be made redundant.

194. The position of Lord Elder was that he did not know the detail of the redundancy process but certainly knew from the Board meeting late June 2019 that there was a decision that the staff in Islamic Studies would require to be reduced from two to one. He and the Board did not know who was going to be made redundant. That was a matter for the process.

195. He did not think that the text from Dr Godazgar was rational albeit Dr Godazgar was a distinguished scholar and liked rational thought. If he had thought that anything would have arisen out of the fact that he wished to have a cup of coffee with Dr Godazgar and "a chat" he would not have done so.

196. The Tribunal considered that Dr Godazgar was mistaken in his interpretation of this meeting and could see no justification for his allegation that the meeting between him and Lord Elder would result in Dr Abubaker seeking to ensure that his wife was made redundant and so unfair. There was no foundation for the view that Dr Abubaker would consider that Dr Godazgar would be promoted to Head of College simply by meeting with Lord Elder.

Display of book entitled “Woman in Islam” on desk of Dr Drammeh

197. A complaint made by the claimant was that Dr Drammeh had displayed on his desk a book on Woman and Islam and the claimant took this to mean that he was going to be teaching this unit in the future; and this was a signal that she was no longer going to be involved in teaching and selected for redundancy. This was not raised in her oral evidence or in the list of issues and so the Tribunal took could take no account of that particular matter. She did raise the matter as part of her grievance which was investigated at the time.

Student feedback forms.

198. In the scoring matrix one of the criteria was “Feedback from students (formal and informal)”. In that respect the claimant scored 2/3 and Dr Drammeh scored 3/4.

199. An issue arose as to the documentation relied upon in this respect. The claimant had produced “Student Course Evaluation Summary” forms for the academic year 2011/2012 (J212/231). The issue was whether this information was available to the College when the scoring exercise was conducted by Dr Abubaker. There was no dispute that these documents were not presented to Dr Abubaker in the course of the redundancy consultation and the issue was whether they were on the College systems for examination. The position of the claimant was that these documents would be in the “shared drive in administration”. The claimant had produced these documents from her own “teaching drives”.

200. The position of Dr Abubaker was that these documents were not available as the “drives” had been cleared and he had only seen these documents

in the bundle for the Tribunal. Dr Abubaker indicated that when the claimant and her husband had gone on sabbatical they had "wiped" data. That meant that the College could not recover documents they were seeking. He advised that the claimant and her husband had taken all papers before they left on sabbatical. These documents (J212/2231) were simply not available to the College.

201. In any event, they referred to a time when teaching was to Masters level as validated through Aberdeen University and related to different subject matter. He did not consider any feedback from Dr Drammeh in relation to PhD level teaching. The feedback he considered was from the SQA programme in Islamic Studies over the previous years as taught by the claimant and Dr Drammeh

Remedy

202. It was agreed that the claimant had taken all appropriate steps in her search for alternative employment and that she had complied with her duty to mitigate loss. Her schedule of loss as at 7 October 2020 was produced (J82/89). It was agreed that her gross annual salary amounted to £42,226 per annum making a gross monthly salary of £3518.83 and net salary at £2408 per month.

203. There had been some small amounts received from Newman University and University of Manchester. In the current uncertainty regarding employment two years' future loss was felt to be appropriate.

204. There was also indicated pension loss. The respondent pension contribution was 21.1% which increased by 2% from 1 August 2020.

205. Additionally, compensation was sought in respect of the discriminatory treatment of the claimant. It was stated that had impacted on her substantially. Specific symptoms were identified within the schedule and it was stated that there was "moderate psychiatric injury" and that appropriate award for injury to feelings would be put at £35,000 within the upper band of Vento.

206. There was also separate claims for failure to promote the claimant and "personal injury" as well as "past financial losses".

207. Additionally an uplift was sought of 25% to reflect the respondent's non-compliance with the ACAS Code.

5 208. There was produced letter from NHS Tayside regarding an incident of "chest pain" on 12 October 2020 (J935) with a print-out of medical records for the claimant identifying problems in the period 2011/2020 and notes of consultations in the period 5 February 2019- 21 October 2020 (J937/941).

Submissions

10 209. The Tribunal was grateful for the submissions lodged by the parties supplemented by their oral submissions. No disrespect is intended in making a summary.

For the claimant

210. The applicable legal principles were summarised in relation to the claims 15 of direct discrimination and that reliance was placed on the acts of discrimination in the list of issues

211. It was stressed that the claimant's claim did not rest on any one individual act and it was important that the Tribunal view the respondent's conduct as a whole assessing the cumulative impact of that conduct. There were 20 frequent, perhaps small failings, which created a pattern of behaviour whereby the claimant was continually treated with less respect which led to a continuous course of discriminatory conduct. Over the course of a year there were multiple examples where the claimant ended up being treated slightly less favourably.

25 212. If the Tribunal found that the claimant had been treated less favourably (no matter how minor) then it was submitted that the respondent had failed to provide a non-discriminatory reason for this (as it had denied that the treatment was in fact unfavourable).

213. It was submitted that there were two intrinsically linked aspects to the 30 discrimination claim. One was Dr Abubaker's hostility towards Shi'ism and

the other related to patriarchal attitudes versus feminist interpretations of Islam.

214. Discrimination did not require to be conscious. Where the reason for the less favourable treatment was not immediately apparent it is necessary to enquire into the respondent's mental processes both conscious and unconscious to determine the factual criteria applied. Those who discriminate do not advertise their prejudices and indeed may not even be aware of them (***Glasgow City Council v Zafar [1998] IRLR 36 (HL)***) and a court should not assume that an individual's actions were free of sub-conscious bias simply because the individual is found to be an honest and reliable witness (***Geller v Yeshurun Hebrew Congregation UKEAT/0190/15***).

215. Comment was made on the evidence on each of the claims of direct discrimination being:-

(i) The failure to respond to the sabbatical report and the request for promotion was disrespectful.

(ii) There was no formal policy regarding promotion or prescribed way of application. It was an entirely reasonable way to conclude the report and lack of respect to progress that matter. There was a "stark contrast" to the way Dr Drammeh was put into the position of Senior Lecturer.

(iii) The meeting of 15 January 2019 was unacceptable in tone and in the manner of the intervention by Dr Abubaker.

(iv) The emails which followed that meeting were evidently hurtful and indicative of a threat being made. They were indicative of a patriarchal style of management in making serious allegations of misconduct. Reliance was placed on the evidence of Safaa Radoan who also felt belittled by Dr Abubaker.

(v) No submissions was made in respect of the conference in Spain.

(vi) There was a failure to progress the expenses claim. Even if it was in error it had still not been paid which was "telling".

(vii) The training in Dundee being cancelled was something that Dr Abubaker stated he had no memory of whereas the claimant had a vivid memory of the form with the word "no" written on it.

(viii) The claimant had been side-lined by more meetings taking place with Dr Drammeh. Given that she was to contribute to the programme she should have been included. There was a deliberate decision to choose Dr Drammeh over the claimant.

5 (ix) At the meeting of 3 September 2019 it was likely that the claimant was being targeted by Dr Abubaker stating that it was necessary to “get rid of waste”.

(x) The redundancy was designed to get rid of the claimant. Essentially it was a matter which was fixed in advance and the

10 dismissal was discriminatory. There was no genuine redundancy situation and the claimant was unfairly selected. The whole process and the matrix used was flawed and so unfair.

216. On the issues of harassment the claimant relied on the same acts outlined

15 in relation to direct discrimination and asserted that these acts of unwanted conduct violated her dignity and created an intimidating, hostile and offensive environment in line with the statutory test.

217. Reference was made to the claimant being made to feel “like a schoolgirl”, for example at the meeting of 15 January 2019. Again the Tribunal were

20 encouraged to look at the cumulative effect.

218. In relation to the claim of unfair dismissal it was maintained that there was no redundancy situation. It was disputed that there was a diminishing need. In the five years prior to the claimant’s dismissal there had been only six students enrolled in the course and as at 8 August 2019, 12

25 applications had been received, seven offers made and five acceptances with a target of four. Islamic Studies was the only course which had reached its target. The timing of the redundancy process required explanation.

219. Even if there was a genuine redundancy the claimant was unfairly

30 selected. Dr Drammeh was brought in to cover the gap created by the departure of the claimant and her husband on sabbatical and Dr Drammeh advised that the contracts were given for a period of 12 months to

November 2018 and then six months to May 2019 and for a further six months to November 2019. This contract was then renewed for one year.

220. The decision by Dr Abubaker to commence redundancy was on his evidence around beginning April 2019 to coincide with the financial year with a decision being taken in late June 2019. When that contract of Dr Drammeh was to be extended he was already considering/preparing a business case for redundancy.

221. While it was accepted that Dr Drammeh could not be treated less favourably because he was on a fixed term contract that did not include extending his contract (which was due to expire) in order to later include him in a pool for redundancy. The expiry of that contract would have meant there was no redundancy situation.

222. The further renewal of the contract in November 2019 was again before a final decision made on 4 December 2019. It was asserted there was no positive obligation on an employer to extend or renew a fixed term contract to ensure the employee remained included in a pool of potential candidates until a redundancy decision was made.

223. In any event the process was unfair in that the matrix was provided to the claimant on 27 August 2019 and repeatedly she and her adviser made complaint about the criteria.

224. She informed the respondent of her comments on 12 September and it was unreasonable to have refused to amend the matrix following comment. It was maintained that the claimant's comment when objectively viewed was an improvement on the existing matrix.

225. The matrix could easily have been amended. There was no explanation given other than that it was decided that there was no need to amend and there was no response made to the substantial concerns made which continued through to the final meeting.

226. It was maintained by the respondent that it was unfair on Dr Drammeh to prolong matters but his evidence was that he had no particular concern about getting another job if that was the situation.

227. Effectively the respondent had decided that they wanted the claimant to go and refused to improve the matrix or alter the process in case the claimant scored higher.

228. In the grievance process the claimant raised the issue of the redundancy matrix but those concerns were never addressed in that process. It would appear that the redundancy process considered that the matrix was being dealt with within the grievance; and that those dealing with the grievance considered that it should be dealt with within the redundancy process. Accordingly, there was no proper consideration given to the terms of the matrix.

229. The adequacy of the redundancy matrix formed part of the claimant's grievance (see email of 6 September 2019 at 603) under reference to the claimant's "cruel attempt" of an unfair redundancy process (643). Additionally comment had been made by the claimant's adviser on 13 September 2019 (653). It was then asserted that the grievance was incomplete albeit the grievance was intrinsically linked to the redundancy consultation. Additionally of course the panel's determination to proceed with the grievance when the claimant was not present hindered its ability to carry out a full fair and proper investigation.

230. The matrix was stated to be flawed because:-

- No column for detailing objective evidence in support of scores
- Some criteria vague (e.g. teaching related issues, effectiveness)
- Indicators not properly defined
- Significant overlap (e.g. 1.3, 1.4, 3.4)
- Qualifications, experience, publications, conduct/disciplinary are missing
- Not comparable to ACAS standard
- It appeared to weight certain criteria but that was not carried through into the scoring

231. On the appeal it was stated that the outcome letter was woefully lacking in any consideration of the issues. It carried no substantive rationale.

232. The claimant relied on the schedule of loss so far as remedy was concerned in relation to the claim of unfair dismissal and discrimination/harassment. The medical records disclosed several medical interventions in the course of the redundancy process.

233. It was not considered that *Polkey* had any application in this case. There was insufficient evidence to find that dismissal was a probability in the event of the Tribunal considering that the process was flawed.

For the respondent

234. It was submitted for the respondent that while the claims now made by the claimant were of direct discrimination/harassment related to religion/belief and or sex it should be noted that the claimant had given several explanations in the course of the case as to why she believed that she was treated less favourably. A prominent claim within the originating ET1 was that the alleged treatment was because she was married to Dr Godazgar. Another explanation in the evidence by Dr Godazgar was that she was made redundant because he had a meeting with Lord Elder. The claimant being treated differently because of religion or belief was not raised until the ET1 was lodged. This was not something that she raised in her grievance or in her appeal. The claimant herself could not decide the reason for the alleged treatment. The claimant was treated no differently from any other member of staff whether male or of any religion.

235. So far as the particular instances were concerned:-

(i) Sabbatical report. Dr Abubaker did not formally respond to the report because he had had a discussion with the claimant about the sabbatical on 7 January 2019. It may have been better practice to acknowledge receipt but he did not consider he needed to at the time. If this was less favourable treatment it was not on account of her sex or religion or belief.

(ii) Decision not to promote. This is tied in with (i). If the claimant wished promotion then it was easy for her to have made that as a separate application. There was never a decision made not to promote her. The agreement made on sabbatical was that she

would return to the same role. It was a significant ask to expect to be promoted after a year's absence. There was a need to make the position much clearer. There was no comparison with Dr Drammeh as he had the position of Senior Lecturer/Associate Professor already. Dr Drammeh's position was that he would not have come back to the school had he not come back as Senior Lecturer. Dr Avdukic was appointed Senior Lecturer by a panel on the basis of his CV to fill a different role in a subject area that was growing in popularity.

(iii) Meeting of 15 January 2019 when claimant "cut off". In the claimant's claim form it was stated that she was the one who was "cut off" but the evidence was that it was Dr Drammeh who was cut off in his explanation to the claimant about a particular item. Dr Abubaker had explained over a full agenda and that the question related to a change that had happened at an earlier meeting when the claimant was off. He wished to get on with the particular agenda and any explanation of previous matters could be reserved. There was nothing untoward mentioned by Dr Drammeh or Dr Al-Tubuly about this matter.

(iv) Email exchanges after conversation of 15 January 2019. The explanation given by Dr Abubaker was that the claimant was taking extensive notes and Dr Drammeh was there as it was necessary that there be an agreed collaboration on the development of the programme between the two members of the academic staff. There was an email exchange and an apology given which was accepted and nothing took place on that issue from the claimant's first week back at work.

(v) The allegation regarding being prevented from a conference in Spain simply did not happen and was a classic example of matters being twisted to show that the claimant was being prejudiced when it was not the case. She was treated the same as her male colleagues.

(vi) The failure to reimburse for her registration fee. The evidence was that the respondent did not fail to reimburse the claimant. The expense claim form was not given to Claire Booth. If it had

been it would have been processed in the normal way. The respondent always reimbursed expenses.

(vii) Failure to allow attendance at free training event on 31 July 2019. Again this was not something which took place. There was no reason for Dr Abubaker not to allow this. There was no evidence of the email which it was stated had the word "no" on it.

(viii) Side-lining of the claimant from meetings and having more meetings with Dr Drammeh. The claimant attended all the academic governance meetings and staff meetings. The only ones she did not attend were the Programme Co-ordinator meetings because she was not in that position. At no time until the grievance did she say she wanted to attend. She made no protest to Dr Drammeh. Dr Radoan stated she did not attend meetings until she was made Programme Co-ordinator. There was no less favourable treatment and no evidence that even if there was it was because she was a woman or of Shia religion.

(ix) Meeting of 3 September 2019 and comments by Dr Abubaker. Again there was nothing in this matter. The evidence showed that Dr Abubaker was talking about a style of management and the comments were not directed against the claimant.

(x) Being made redundant because of sex/religion and belief. The reason for the claimant's redundancy was because there was a redundancy situation. In that process she came second in the scoring exercise which was conducted.

Unfair dismissal

236. It was maintained that there was a redundancy situation. The suggestion that as there were five students there was no redundancy situation misses the point. There was only a need for the one lecturer. That was still the case. Dr Drammeh taught a woman in Islam with the same assistance on German ethics as before.

237. The board were advised of the business case and they agreed there was a need to make one lecturer redundant. The process was a matter for the college management.

The pool

238. As at May 2019 no decision had been made to make any redundancies. The decision to renew Dr Drammeh's contract was not related to the redundancy. The decision to renew the contract would require to have been made before May 2019. Dr Drammeh was employed on the Islamic Studies review as well as teaching and was a Programme Co-ordinator. No decision had been taken by the board. When the redundancy exercise started in July 2019 advice was taken and given that to have chosen Dr Drammeh because he was on a fixed term contract would have offended the Fixed Term regulations. Both then required to go into the pool for redundancy.

239. It has been suggested that the fixed term contract of Dr Drammeh should have been allowed to expire in November 2019. It was submitted that would not have been a reasonable impart of the respondent. The redundancy process was agreed in June 2019, discussed internally in July 2019 in terms of the pool and the matrix and commenced 1 August 2019. It is reasonable of an employer to act on a decision taken in June 2019 and put both in the pool. Once started it would not have been reasonable to simply dismiss him in November 2019. The only reason that could have been given to Dr Drammeh would be that because the claimant had chosen to extend the process by taking out a grievance the respondent was no longer honouring a redundancy process. Dr Drammeh would have had good reason to claim unfair dismissal/less favourable treatment as a Fixed Term worker had the respondent acted in such a way. That would not be the actings of the reasonable employer.

Was the procedure fair?

240. While the claimant alleged that the matrix was unfair it was submitted that it contained reasonable criteria and that the respondent had acted reasonably in giving the claimant an opportunity to comment. The draft matrix was given out on 27 August 2019 and the claimant being asked to comment by end of the week of 3 September 2019. No substantive comment was made. There seemed to be a fixation on the fact that no

Equality Impact assessment had been effected but none need be done. It was reasonable to continue with the process.

241. The matrix relied on objective matters such as student feedback, course development, output/publications, supervision, external funding, building up subject areas. Dr Abubaker was able to consider what each candidate had done in respect of the criteria. Where the criteria could be said to be more subjective such as performance/effectiveness/decision making, Dr Abubaker had a good knowledge of both candidates. He was measured in the way that he had set about the marking.

242. The claimant was given the opportunity to provide evidence to challenge the scoring. She chose not to do so.

243. The only evidence of any change in the scoring at the Tribunal was that Dr Abubaker accepted that he may have scored the claimant a point higher on "student feedback" but not on course development. That would not have made any difference to the outcome.

244. It was submitted that the complaint on the criteria did not render the matrix unfair. The absence of a column for detailing objective evidence did not render a matrix unsuitable. The explanation given by Dr Abubaker showed that he had taken care in the scoring exercise.

The grievance

245. It was suggested that the redundancy process was unfair because the respondent's grievance panel did not consider whether the matrix was fair. While it was accepted that the panel in the grievance did not consider the matrix there was no suggestion from the claimant's representative or the claimant that in the ET1 or in the appeal against the grievance that it should have been part of that process. It was a matter which seemed to arise at the suggestion of the claimant's counsel when questioning the respondent's witnesses.

246. It was reasonable for the respondent to consider the claimant's grievance document which was submitted as containing the grievance by the claimant. It was also reasonable to separate the redundancy process from

the grievance and have the matrix dealt with within the redundancy process. The issue of the matrix was considered by Mr Booth and Dr Abubaker, both of whom felt that the criteria were fair.

Redundancy process

5 247. The matrix was developed using matters of importance to the college as it progressed and there was consultation on the matter with the claimant and her representative. The scores were identified to the claimant after giving her an opportunity to comment on the matrix.

248. It was clear that Dr Abubaker had taken advice from HR Booth and the 10 College solicitors and there was no engineering of the position such as the claim that Dr Abubaker did not wish to improve the matrix because the claimant would have scored higher. He had an open mind in that he was willing to accept when giving evidence that if the claimant had supplied more material regarding feedback then he may have increased her score 15 by 1 point. He did not have that material as it was not available to him given it had been deleted from the hard drive at the College prior to the redundancy process.

249. The claimant had been advised of the only alternative employment available.

20 250. It was submitted that it would not be appropriate for an Employment Tribunal to embark on a detailed scrutiny of the system used for scoring or the application of the system in a particular case. Reference was made to the explanation on the law in this area contained in ***Camelot Group plc v Hogg UKEATS/0019/10/BI***.

25 251. So far as injury to feelings was concerned it was stated that even if there was discrimination compensation would be at the lower band of Vento. The evidence was that the claimant only took medical advice once the redundancy consultation had commenced. There was no medical intervention prior to that time albeit she maintained she was subjected to 30 a hostile environment.

Time bar

252. While time bar had been raised and reserved for this final hearing that was not being insisted upon.

Conclusions

5 *Relevant law*

Direct discrimination

253. Section 13 of the Equality Act 2010 prohibits direct discrimination "because of a protected characteristic". That applies to the protected characteristics claimed in this case of sex and religion or belief. An
10 employer directly discriminates against a person if:-

- It treats that person less favourably than it treats or would treat others, and
- the difference in treatment is because of a protected characteristic

15 254. In many cases the "less favourable treatment" cannot be resolved without at the same time deciding the reason why (***Shamoon v Chief Constable of The Royal Ulster Constabulory [2003] ICR 337 HL***).

255. As was observed in ***Glasgow City Council v Zafar [1998] ICR 120*** claims brought under the discrimination legislation presents special problems of
20 proof since those who discriminate "do not in general advertise their prejudices: indeed they may not even by aware of them". For that reason the burden of proof rules that apply to claims of unlawful discrimination in employment are more favourable to the claimant than those that apply to claims brought under other employment rights and protections. If a
25 claimant shows *prima facie* evidence from which the Tribunal could conclude in the absence of any other explanation that an employer has committed an act of discrimination the Tribunal is obliged to uphold the claim unless the employer can show that it did not discriminate – s.136 Equality Act 2010.

256. It is possible to construct a purely hypothetical comparator. It is not necessary for a claimant to point to an actual person who has been treated more favourably in comparable circumstances. In this case in respect of the claim of discrimination on the ground of the protected characteristic of sex the claimant's comparator was a male in the same position; and in particular Dr Drammeh and Dr Advudic For the protected characteristic of religion or belief then the comparator was someone in her position who was not Shia Muslim.

257. It is necessary for a Tribunal to be satisfied that a claimant was treated less favourably. It is for the Tribunal to decide as a matter of fact what is less favourable. The fact that a claimant believes that he or she has been treated less favourably does not of itself establish that there has been less favourable treatment. However, a claimant's perception of the effect of treatment upon him or her has to be weighed in the balance. In ***Williams v The Trustees of Swansea University Pension Scheme [2018] UKSC 65*** the Supreme Court in a case brought on pension matters stated (paragraph 27) that "in most cases … little is likely to be gained by seeking to draw narrow distinctions between the word 'unfavourably' in section 15 and analogous concepts such as 'disadvantaged' or 'detriment' found in other provisions, nor between an objective and a 'subjective/objective' approach." It went on to state that there was a "relatively low threshold of disadvantage which was sufficient to trigger the requirement to justify under this section."

258. Also in ***Chief Constable of Gwent Police v Parsons and Roberts UKEAT/0143/18/DA*** (another pension case related to the protected characteristic of disability), the EAT referred to the Supreme Court decision in ***Swansea University*** where "Lord Carnwarth sums up the position succinctly" as follows:

> "…. Section 15 appears to raise two simple questions of facts: what was the relevant treatment and was it unfavourable to the claimant?"

259. A complaint of direct discrimination will succeed where the Tribunal finds that the protected characteristic was the reason for the claimant's less

favourable treatment. That would require a Tribunal to focus on the reason why in factual terms an employer acted as it did.

Harassment

260. Section 26 of the Equality Act 2010 states:-

5 "(1) A person (A) harasses another (B) if –
(a) A engages in unwanted conduct related to a relevant protected characteristic, and
(b) the conduct has the purpose or effect of –
(i) violating B's dignity, or
10 (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B."

261. A claim based on "purpose" requires an analysis of the alleged harasser's motive or intention. That in turn requires a Tribunal to draw inferences as to what that true motive or intent was. In such cases the burden of proof 15 may shift from accuser to accused as it does in direct discrimination.

262. Where the claim simply relies on the "effect" of the conduct in question then motive or intention which could be entirely innocent is irrelevant. This test has both subjective and objective elements to it. The assessment requires the Tribunal to consider the effect of the conduct from the 20 complainant's point of view ("the subjective element"); and to ask whether it was unreasonable of the complainant to consider that conduct had that requisite effect ("the objective element"). The fact that the claimant is peculiarly sensitive to the treatment accorded to him or her does not necessarily mean that harassment would be shown to exist.

25 263. Neither is it enough that a claimant believes the conduct to be related to the relevant characteristic. To find that the conduct is "related to" a relevant characteristic it is necessary for a Tribunal to "find some feature or features of the factual matrix which properly leads to the conclusion that the conduct in question is related to the particular characteristic in 30 question, and in the manner alleged in the claim". It is not the case that s26 "bites on conduct which although unwanted and has the proscribed purpose or effect is not found for some identifiable reason to have been

related to the characteristic relied upon…" ***(Tees Esk and Wear Valleys NHS Foundation Trust v Aslam UKEAT0039/19)***

Redundancy (unfair/discriminatory)

264. Redundancy is one of the potentially fair reasons for dismissal within section 98(2)(c) of the Employment Rights Act 1996 (ERA). An employee can argue that his or her "redundancy" dismissal was unfair under ERA for reasons including (a) the dismissal was not by reason of redundancy, but was instead for a reason which is not potentially fair under section 98(1) or (2), (b) although a redundancy situation existed, and the employee was not selected for an automatically unfair reason, the dismissal was nevertheless unreasonable under section 98(4) or (c) that the decision to select him or her for redundancy was an act of unlawful discrimination.

265. For a dismissal to be by reason of redundancy a redundancy situation must exist. A Tribunal should not investigate the reasons behind such a situation existing. A Tribunal does not have jurisdiction to consider the reasonableness of the decision to create a redundancy situation. However a Tribunal should question whether the decision to dismiss was genuinely on the ground of redundancy and that might require that an employer show the decision to make redundancy was based on proper information. In short, a Tribunal is entitled to only ask whether the decision to make redundancy was genuine not whether it was wise.

266. In considering whether there was a redundancy situation reference requires to be made to section 139(1) of ERA. In this case there was no cessation of business or intention to cease business and so the applicable statutory words are:-

> "For the purposes of this act an employee who is dismissed shall be taken to be dismissed by reason of redundancy, if the dismissal is wholly or mainly attributable to –
>
> (b) the fact that the requirements of that business –
>
> (i) for employees to carry out work of a particular kind or,

(ii) for employees to carry out work of a particular kind in the place where the employee was employed by the employer

have ceased or diminished or are expected to cease or diminish."

5 267. It is the requirement for employees to do work of a particular kind which is significant. If fewer employees are needed to do work of a particular kind there is a redundancy situation. There is no need for an employer to show an economic justification for that decision (***Safeway Stores plc v Burrell [1997] ICR 523*** and ***Murray and another v Foyle Meats Ltd [1999] ICR***
10 ***872***)

268. If there is a redundancy situation the second issue is whether the dismissal is "wholly or mainly attributable" to that state of affairs. In this case of course it is suggested that dismissal was not attributable to that state of affairs but to discriminatory treatment.

15 269. Alternatively it is submitted that the redundancy dismissal was unfair under the general unfair dismissal provisions in section 98(4) of ERA. ***Williams and others v Compair Maxam Limited*** did lay down guidelines that a reasonable employer might be expected to follow in making redundancy dismissals. It is not for a Tribunal to impose its own standards to decide
20 whether the employer should behave differently. Instead it has to ask whether the dismissal lay within the "range of conduct which a reasonable employer could have adopted". The factors given in **Compair Maxam** as those that a reasonable employer might be expected to consider were:-

- Whether the selection criteria were objectively chosen and fairly
25 applied
- Whether the employees were warned and consulted about the redundancy
- Whether there was a union and the union's view was sought
- Whether any alternative work was available

30 270. Clearly where an employer selects an employee for redundancy because of a protected characteristic (in this case sex and religion/belief) then that would be an unfair dismissal in terms of section 98(4). An employer would

not act reasonably for ERA purposes while contravening discrimination legislation. However, an unfair dismissal is not necessarily discriminatory.

271. If an employee can prove facts from which the Tribunal could infer that discrimination has taken place then the burden shifts to an employer to provide a non-discriminatory explanation for those facts. However, a simple allegation that an employee's selection for redundancy was discriminatory will be insufficient to shift the burden of proof.

272. As regards selection criteria the task for a Tribunal is to satisfy itself that the method of selection was not inherently unfair and that it was applied in the particular case in a reasonable fashion. Thus employers are given a wide discretion in their choice of selection criteria and the manner in which they apply them and the Tribunal would only be entitled to interfere in those cases which fall at the extreme edges of the reasonableness band. In ***LTI Ltd v Radford EAT164/00*** the EAT held that a Tribunal fell into error when it concerned itself with its own view of what selection criteria should have been applied rather than maintain focus on the employer's criteria. Equally the application of that criteria must be reasonable and as regards scoring should only concern itself with whether there has been a bad faith or obvious error (***Dabson v David Cover & Sons Ltd; Buchanan v Tilcon Ltd [1983] IRLR 417; Eton Ltd v King and others [1995] IRLR 75; British Aerospace plc v Green [1995] ICR 1006***).

Discussion

Discriminatory treatment

273. As a preliminary matter the Tribunal did note that there appeared uncertainty on the claimant's part of the protected characteristic at play in the claimed prohibited conduct. The original claim was based on the protected characteristics of sex; religion or belief; and marriage and civil partnership being a reference to the person to whom she was married namely Dr Godazgar. Evidence of Dr Godazgar was that he considered the redundancy was because after he had departed as Principal he had been seen by Dr Abubaker in conversation with Lord Elder. His surmise

was that Dr Abubaker would consider that Dr Godazgar was to be put in the position of Principal and so set about making the claimant redundant. That uncertainty in the basis for the alleged discriminatory treatment was not helpful to the claimant in the claims made.

5 274. As indicated in the findings so far as there were assertions that Dr Abubaker had views which discriminated against women who had feminist views in Islam or were Shia the Tribunal was unable to make any findings that was the case in respect of any "background" information which might allege discriminatory reasons for the actings of Dr Abubaker.

10 *Failure to respond to claimant's sabbatical report*

275. The Tribunal did not see any need for a response to be made to the report submitted by the claimant. As indicated in the findings a meeting had taken place on 7 January 2019 with the claimant and the content summarised in the email of 8 January (J336) advised that the discussion 15 included the work undertaken during the sabbatical and the agreement that there would be a report submitted covering the main items during the period of sabbatical. It may have been courtesy to have acknowledged the terms of the report but the Tribunal saw no unfavourable treatment. The Tribunal could make no finding of direct discrimination of the protected 20 characteristics founded upon or harassment related to the relevant protected characteristics. There was no evidence of any comparator being treated in a different way in respect of the claim of direct discrimination. In respect of the claim of harassment if the claimant considered that the effect of the non-acknowledgement of the report 25 created an intimidating, hostile, degrading, humiliating or offensive environment for her then the Tribunal did not consider that it was reasonable for her to do so.

The respondent's decision not to promote the claimant to Senior Lecturer in January 2019

30 276. This complaint was a reference to the sabbatical report including a request for promotion. That was not responded to by Dr Abubaker. There was no evidence of male comparators being afforded different treatment in this

respect or those of a different religion. The position of Dr Drammeh and Dr Avdukic being in the position of Associate Professor/Senior Lecturer was outlined in the findings. Dr Drammeh was in that position when he was approached about a return to the college during the sabbatical year. He would not have accepted the position had there been a demotion involved which was perfectly understandable. Dr Avdukic had responded to an advertisement for an Associate Professor/Senior Lecturer and had been interviewed by a panel to be appointed to that position.

277. It is not therefore obvious what would have happened had a male made that reference in a sabbatical report or someone who was not Shia. The position of Dr Abubaker was that there was a clear statement in the letter outlining the sabbatical conditions that the claimant would return to her existing position and salary with provisions regarding salary review in the next cycle. The Tribunal did not consider that the claim of a "decision not to promote" the claimant was one which would not have been made had the claimant been a male colleague or of a different religion returning from sabbatical and making such a request in the report.

278. The request was not followed up the claimant. There was no evidence that there was a requirement for a Senior Lecturer/Associate Professor at the College and that there was a position to which the claimant could be promoted.

279. As the Tribunal understood the position the claimant carried out no formal duties for teaching at Warwick University and there was no particular appointment process at the University such to indicate that the lack of consideration for the position of Associate Professor/Senior Lecturer could only be explained by prohibited conduct. The evidence was that had there been a more formal application with more detailed reasons for the promotion and benefits to the college then a panel would have been constituted as happened in the case of Dr Avdukic.

280. As outlined in paragraph 90 the originating claim made reference to the claimant being singled out for lack of promotion over the 9 years of employment and that being discrimination because of her sex. However that claim was not pursued in the evidence. The position then became that

albeit there was concern on lack of promotion over the years the lack of promotion in January 2019 was down to discrimination at the instance of Dr Abubaker because of sex and/or religion or belief. That did not assist the Tribunal in making any inference that there was discriminatory treatment at play in January 2019.

281. The Tribunal were unable to make any finding of direct discrimination or harassment arising out of this issue.

On 15 January 2019 Dr Abubaker cut the claimant off saying he "did not have time for all this".

282. The evidence was that it was not the claimant who was "cut off" but Dr Drammeh who was responding to a question raised by the claimant. The incident arose in respect of a query raised by the claimant on an issue which had been dealt with while she was on sabbatical. The position of Dr Abubaker was that there was a full agenda for this TeLSEC meeting. The committee had not met for some time and there was a good bit of business to be conducted. He wanted to proceed with that rather than discuss issues which had been dealt with previously. The colleagues present at this meeting did not have any feeling that the claimant was being singled out. There could be robust exchanges at meetings The Tribunal did not consider there to be less favourable treatment.

283. In any event given it was Dr Drammeh that was "cut off" then there was evidence that males were treated in that way which would belie the claim of direct discrimination. Similarly, the Tribunal could make no finding that the reason for wanting that conversation to be cut short was related to the protected characteristics of sex and/or religion. It was accepted that the reason for cutting the conversation short was a desire to get on with the business of the meeting.

Email exchanges after meeting of 15 January 2019

284. The findings narrate the evidence in relation to the discussion following the meeting of 15 January 2019. The claimant's position was that she felt humiliated. However it would appear that staff would be asked to stay behind to discuss matters with Dr Abubaker for various reasons on various

occasions and this was nothing unusual. There was a direct exchange about the claimant taking extensive notes which had been noted both by Dr Drammeh and Dr Al-Tubuly. They did not consider it a matter of great moment but Dr Abubaker was wishing to understand the reason why. There appeared no denial from the claimant that she was taking extensive notes in an effort to "catch up".

285. The email exchange was direct. An apology was conveyed if it was thought that Dr Abubaker was shouting at the claimant. That apology appeared to be accepted.

286. New procedures had been put in place during the claimant's sabbatical by Dr Abubakar when he came to occupy the position of Acting Head of College. He had been in that position for about 12 months at this stage. It appeared that he wished to emphasise the point that things had changed. It was the case that the claimant had been in the position of Head of Department but was no longer in that role and that would require some readjustment. The Tribunal considered that exchange would have taken place with anyone in the same position. From the evidence the Tribunal were not able to state that the reason why that direct email exchange took place was by inference or otherwise because the claimant was a woman or because she was Shia Muslim or was related to those protected characteristics.

The respondent's refusal to grant the claimant's request to attend a conference in Spain on 15 April 2019.

287. There was no foundation to this claim. The claimant was not treated any differently from her male comparators, they were subject to the same provisions on attending conferences. There was no suggestion that a Sunni Muslim was able to attend conferences on any different terms.

The respondent's failure to reimburse the claimant for a registration fee

288. Again the Tribunal on facts found that the proper procedure had not been followed by the claimant in presenting the appropriate invoice to Claire Booth to be processed. She indicated in cross examination that she should have submitted that claim to Claire Booth and maybe it was "wrong

not to submit it to Claire Booth". While a point was made that the registration fee was still outstanding there was no evidence that the claimant had ever made a claim using the proper process for reimbursement to be made.

The refusal to authorise the claimant to attend free training on 31 July 2019 in Dundee

289. On the facts of this matter the Tribunal were unable to find there had been any decision by Dr Abubaker to rescind his previous decision to allow attendance at this conference. Albeit the claimant claimed to have seen a document with the word "no" written on it that was not produced. There appeared no attempt made to obtain evidence from the administrator who had given or shown this document to the claimant. The Tribunal considered that the onus was on the claimant to show that this had happened and there was insufficient evidence to demonstrate there had been a denial of access to this event which had previously been approved.

The claimant being side-lined from academic decisions following return from sabbatical

290. On this aspect of matters there had been changes made in relation to College meetings during the claimant's sabbatical. Prior to that time she had been in the position of Head of Department but when on sabbatical those positions had been discontinued and in their stead academic staff appointed as "Programme Co-ordinators". Dr Drammeh was the Programme Co-ordinator for Islamic Studies and continued in that role. The evidence was that there were regular meetings between Dr Abubaker and the Programme Co-ordinators within the subject areas.

291. The evidence was that Dr Al-Tubuly attended these meetings in that position and when Safaa Radoan had been appointed Programme Co-ordinator she took part in those meetings. Not only males were invited to these meetings.

292. There was no evidence that the claimant was excluded from governance meetings. It had been agreed at an earlier meeting of the Marketing and Student Recruitment Committee that the number of attendees should be reduced. That was done with the claimant being one of those who were not longer required to attend. She was not the only individual affected in that way. There was no evidence of the claimant being deliberately singled out and side-lined from academic decisions. None of the witnesses could speak of any meetings to which they considered the claimant should have been invited but was not.

293. Given the finding in the evidence on this matter the Tribunal can make no conclusion that the claimant had been less favourably treated than others or any treatment was on account of her sex or religious belief. Neither was the claim of harassment under section 26 of EqA made out.

Dr Abubaker had more meetings with Dr Drammeh than the claimant.

294. It is correct to say that there were more meetings between Dr Drammeh and Dr Abubaker than with the claimant. As explained the evidence was that Dr Drammeh was in the position of Programme Co-ordinator and the arrangements were that informal meetings would take place with those in that position (not just Dr Drammeh). There were men and women appointed as Programme Co-ordinators. Dr Al-Tubuly and Safaa Radoan had informal meetings with Dr Abubaker. The facts did not bear out the claim that there was less favourable treatment of the claimant in this respect.

295. Even if there was a *prima facie* case the explanation of the respondent that there had been a deliberate intent to streamline meetings in this way was accepted. It was not because the claimant was a woman or was a Shia Muslim that there were more informal meetings with Dr Drammeh. Similarly the facts did not disclose any harassment claim being made out under section 26 of EqA. Even if the claimant felt there was a hostile environment being created by more informal meeting with Dr Drammeh it was not reasonable of her to be of that belief.

On 3 September 2019 Dr Abubaker stated he preferred a lean style of management and he wanted "to get rid of waste" and "anything that doesn't work should be eliminated"

296. This meeting took place subsequent to the second consultation meeting in the redundancy process and after the claimant indicated that she wished to raise a grievance involving Dr Abubaker.

297. She attended a workshop on 3 September 2019 and in terms of the facts found the context was to consider a restructure of governance at the College. The Tribunal found the comments made by Dr Abubaker were directed towards management processes and not the claimant as an individual. She was wrong to assume that these remarks were directed at her. The layout of the meeting disclosed that Dr Abubaker could not have been "looking directly" at the claimant when he made these remarks as was alleged. The claimant may have taken it personally but the Tribunal were satisfied that in the context of the meeting and the discussion it was not reasonable of her to do that. In those circumstances they could make no finding of discrimination on the grounds of her sex or her religious belief or that the claim of harassment under section 26 of EqA was made out.

Other incidents

298. Other matters were referred to by the claimant to make the case that Dr Abubaker had a traditional attitude from an Islamic perspective towards women and on a day to day basis was less respectful to women than men. She referred to meetings chaired by Dr Al-Tubuly when she alleged that she was intimidated to the extent that she was reduced to tears and that he was "harsh" towards her.

299. So far as Dr Radoan was concerned she indicated that Dr Abubaker had intimated he would "throw people to the street" whereas that was not something he would "do with male colleagues".

300. While these matters were not listed as issues they were raised and have been dealt with in the findings. In respect of the meetings of 11 January and 12 February 2019 where it was alleged that Dr Al-Tubuly was intimidated and tearful this was not supported by Dr Al-Tubuly. Her

position was that there were matters in her life at that time which occasioned her to be more fragile than normal. She was annoyed with herself at that but it was nothing to do with Dr Abubaker. Also she was asked to chair these meetings on a temporary basis and was relieved when that came to an end. She did not require to relinquish that role because she had been intimidated by Dr Abubaker.

301. Additionally, the evidence on the comment of people being "thrown to the street" was not a matter upon which the Tribunal were able to make any finding given the conflict in evidence between what was asserted to have happened and the evidence from Safaa Radoan. These incidents for the Tribunal could not found a basis for a claim that Dr Abubaker's attitude towards women was patriarchal inspired by traditional Islamic views and that he treated women less favourably than men as a consequence.

302. So far as religious discrimination incidents were concerned the evidence related to

(a) because the claimant was Shia Muslim and Dr Abubaker Sunni Muslim and the claimant felt she had been less favourable treatment then that must be for religious reasons.

(b) that there was an incident with a student being denied reading the Qur'an at an event, and

(c) that there had been some incident in a restaurant where comment was made by Dr Abubaker about Muslim faith.

303. Again the Tribunal could not make any finding on this evidence. It was taken along with the evidence from Dr Abubaker that he had no disquiet about Shia Muslims and had no reason to carry any prejudice. The evidence from Dr Godazgar of the student being denied reading from the Qur'an was unsupported and the Tribunal did not consider this incident had any basis. The evidence regarding the alleged incident in the restaurant was confusing and nothing could be made of it.

304. In those circumstances there was no evidence available to the Tribunal to make any finding that there was direct discrimination on the grounds of

gender; religion and/or belief or that there was any basis for the claims of harassment on the same issues.

305. While the submission for the claimant was that the Tribunal should take account several small incidents to amount to a whole picture of disrespect that was not possible on the evidence heard and findings made. The only incidents where the Tribunal could detect the possibility of less favourable treatment were

(1) the lack of acknowledgement of the sabbatical report,
(2) the failure to acknowledge the request for promotion contained in the sabbatical report, and
(3) the exchange of emails after the meeting of 15 January 2019.

306. Those incidents occurred around the first week of the return of the claimant and have been referred to in the evidence and comment on the issues. The Tribunal did not consider that these were matters which were to be taken as amounting to direct discrimination because the claimant was a woman or because of her religious beliefs. The context of the meeting, notes taken, changes made in the way in which the college business was conducted reflected nothing more for the Tribunal than that these parties required to settle in to their new working arrangements following the occupancy by Dr Abubaker as Acting Head of College in place of Dr Godazgar and the claimant's return to the new working arrangements subsequent to her sabbatical. There may have been for Dr Abubaker an intent to emphasise that he was now in the position of Acting Head of College with the responsibilities and authority that gave but it was not an exercise of power to treat the claimant less favourably because she was a woman or a Shia Muslim. Neither did the Tribunal consider that these incidents amounted to harassment under section 26 of EqA. It could not find the identifiable reason to conclude that any of these matters were related to the protected characteristics. In the event that the claimant considered the effect on her was to create a hostile intimidating atmosphere that was not reasonable in the view of the Tribunal. So far as it was claimed that the evidence of Safaa Radoan was confirmatory of the discriminatory approach by Dr Abubaker in relation to

patriarchal attitudes, the Tribunal were not of the view that this evidence demonstrated that characteristic.

Redundancy

307. The complaint on the claimant's redundancy covered two aspects namely (1) that the claimant being made redundant on 20 December 2019 was an act of direct discrimination on the ground of sex and/or religion and belief and was also an act of harassment; and (2) was unfair in any event.

308. The lack of any finding of discriminatory treatment leading up to the decision by the respondent Board on 27 June 2019 to effect a redundancy within the area of Islamic Studies meant that Dr Abubaker's actings were not tainted by discriminatory treatment of the claimant such that the inevitable inference would arise that the whole process, as the claimant would put it, was "rigged" to ensure the one result. If that was the case then the Tribunal could not consider that arose because Dr Abubaker entered the process with discriminatory views on the claimant's sex or religious belief.

309. Also as narrated there were certain incidents founded on by the claimant of discriminatory treatment in the course of the redundancy process. Neither again were the Tribunal able to make a finding that on these occasions there had been discriminatory treatment. In that respect therefore the Tribunal make no finding that within the redundancy process itself there was evidence or an inference arising that the reason for redundancy was because of discrimination against the claimant.

Was the redundancy genuine?

310. It was submitted that there was no genuine redundancy situation and so the inference would arise that the reason for dismissal was discriminatory treatment.

311. The Tribunal considered that there was a genuine redundancy situation. At the time the decision was made on 27 June 2019 the statistics for enrolment on the Islamic Studies course showed for the previous five academic sessions to April 2019 there had been only six graduated

students. The claimant founded on the expected numbers of students coming in to the course as known in August 2019 in accordance with the information from Linda Gibson (J431). This showed that against a target number of students of four, five had accepted at that point. Accordingly, even in August 2019 the position was that two members of academic staff were required to teach five students.

312. There was no evidence to suggest that two full-time members of the academic staff were required to teach five students.

313. As indicated a redundancy situation arises where there is a diminishing need for employees to do the available work. That includes a situation where the work has not diminished but fewer employees are needed to do it, for example where reorganisation results in a more efficient use of labour. It is the requirement for employees to do work of a particular kind which is significant. The fact that the work is constant or even increasing is irrelevant. If fewer employees are needed to do work of a particular kind there is a redundancy situation.

314. In this situation the respondent decided as a management decision that fewer employees were needed to teach in Islamic Studies than two. Given the numbers of students enrolling and the absence of any evidence that two members of academic staff were required to teach five students the Tribunal were readily able to accept that there was a redundancy situation.

315. Criticism is made of the timing of redundancy given that there had been a considerable period when a very low number of students were enrolled in the Islamic Studies course. Dr Abubaker acknowledged that perhaps the situation should have been addressed earlier but he was not in a position to do that until becoming Acting Head at which time as a result of the sabbatical of the claimant there were no lecturers in that area and he required to engage Dr Drammeh.

316. Also criticism was made of renewing the fixed term contract of Dr Drammeh in May 2019. However the decision on redundancy was not made by the Board until 27 June 2019. While Dr Abubaker in his budgeting exercise considered redundancy was possible he had not

presented any business case to the board and that decision was only taken after the fixed term contract of Dr Drammeh had been renewed. Questions were put to the witnesses in cross examination regarding the timing of matters. It was clear that the claimant had a suspicion that the timing of the redundancy, consideration by the Board and their decision after May 2019 was part of a calculated plan. However, it was clear that the appointment of HR Booth and advice taken on the whole redundancy situation was subsequent to that decision being made by the board on 27 June 2019. Also, the Tribunal were satisfied that was a time at which the board members were able to gather and it was not a date which was identified to suit a planned outcome of ensuring the claimant's redundancy. Thus by the time the redundancy decision was taken there was in place a further fixed term contract for Dr Drammeh.

Pool for selection

317. The advice taken by Dr Abubaker was whether or not Dr Drammeh should be included in the pool given that he was on a fixed term contract. He was rightly told that that should be the case and accordingly it was inevitable that the pool for selection would consist of the claimant and Dr Drammeh. Those were the two individuals engaged within Islamic Studies and it was there that the redundancy situation existed.

Consultation

318. Consultation with the claimant began with the meeting of 13 August 2019 when the business case for reduction of lecturers from two to one was explained. It was made clear that a parallel discussion was being run with Dr Drammeh at that time. While there was a suggestion that there had been a "managed decline" of the Islamic Studies programme this was disputed by Dr Abubaker. In any event, it would not be part of the Tribunal's function to investigate historical reasons behind there being a genuine redundancy situation.

319. That meeting of 13 August 2019 advised alternative roles would be considered and consideration given to any proposals of alternatives to redundancy.

320. At the subsequent meeting of 27 August 2019 the alternative role in Islamic Finance was proffered which on the evidence was the only other role available within the College at that time. There was also produced the proposed "redundancy evaluation form" or selection matrix and the claimant asked to come back with feedback on the matrix. Matters did seem clouded by the insistence that the matrix should be "tested against an equality impact assessment" but the response was correct namely that would not be a duty which fell on the respondent as a private employer.

Selection matrix

321. The claimant initially indicated on 28 August 2019 that she had "some concerns" about the matrix but made no specific comment at that time. The following day she indicated that she wished to raise a grievance as she had been bullied and intimidated by Dr Abubaker with the "last and cruel attempt being an unfair redundancy process". That seemed to be because she had been involved in the process given her contribution to the Islamic Studies programme and specifically the unit of Woman and Islam. On the same day the claimant was advised that details of the position in Islamic Finance would be made available to her and that she should let the college know by 3 September 2019 if that role was of interest. The particulars were sent the same day. Also, the claimant was advised that if she had comment on the selection matrix then that should also be given by 5pm on Tuesday 3 September 2019.

322. While the claimant sent comment on the scoring matrix to her adviser on 28 August 2019 that was not sent to the respondent. Accordingly, there was no specific information given on concerns on the scoring matrix other than the general indication that it was biased and unfair. At this time Dr Abubaker had taken some further advice on the scoring criteria. He noted there was no comment from Dr Drammeh on the criteria being used and took the view that the criteria were reasonable. Accordingly he scored the claimant and Dr Drammeh in terms of that criteria on 9 September 2019 and on 10 September 2019 advised the claimant through her adviser of the outcome. At this time no detail of the concerns on the matrix had been intimated. It was also indicated at that time that Dr Abubaker would step back from the final redundancy consultation

meeting given the concerns raised about him in the intimation of a grievance.

323. Particular concerns on the scoring matrix were intimated by the claimant on 12 September 2019.

5 324. The Tribunal were satisfied that there was no one else in a senior position who could have carried out the scoring but Dr Abubaker. He was the only person in a senior position with knowledge of the two candidates. Albeit there was a grievance intimated against him it was necessary for him to carry out the scoring exercise.

10 *Scoring criteria and grievance hearing*

325. It was common ground that the panel convened to hear the grievance did not consider the complaints about the scoring matrix and the redundancy exercise. They considered that was a matter which should be dealt with within the redundancy process itself. The Tribunal took the view that was 15 a reasonable approach. The essence of the grievance was that Dr Abubaker had been bullying and intimidating of the claimant and had discriminated against her in relation to the various matters. If of course the grievance had been upheld then that would have impacted on the redundancy process but it was not. Clearly if the individual who leading 20 the redundancy process had been found to have been bullying or intimidating of the claimant or guilty of discriminatory treatment against her then that would impact on whether or not the scoring matrix was put together and scored in good faith. However, with there being no finding of that nature then it was a reasonable approach for the grievance panel 25 to leave issues involving the scoring matrix to be considered within the redundancy process itself.

Incident of 3 September 2019

326. Around this time the claimant believed comment made by Dr Abubaker of "getting rid of waste" was directed at her. As outlined in the facts on this 30 matter the Tribunal were not of the view that that was a well-founded claim. Accordingly, the Tribunal did not find that as matters progressed within the redundancy process there was a finding on this incident of discriminatory

behaviour which may have influenced the redundancy process. Neither did it consider that the remarks made in this meeting indicated that redundancy of the claimant was a foregone conclusion and she was being targeted in that respect and so any subsequent dismissal unfair.

The display of book on Woman in Islam.

327. A further matter for the claimant in relation to her being targeted and the process unfair was her belief that Dr Drammeh displayed a copy of the book Woman in Islam on his desk to signal to the claimant that he was going to be preferred within the redundancy exercise before it had concluded. The suggestion was that he must have been "tipped off" that he would be retained and that the claimant would be made redundant. Again the Tribunal did not find any basis for that belief from the evidence heard. Again, it was not a reason to consider that the redundancy process was a sham only to achieve the one outcome namely dismissal of the claimant.

Selection criteria consideration and final consultation.

328. The claim was that there had been no consideration of the claimant's concerns on the scoring matrix but the Tribunal did not consider that was the case. The final consultation meeting required to be held subsequent to the grievance being considered and determined. As narrated within the findings the claimant did not attend the grievance hearing. From the evidence however it was clear that despite the absence of the claimant there was some detailed consideration given to the complaints made with evidence from College witnesses including Dr Abubaker. The issues covered in the grievance were those covered within the Tribunal hearing. The panel determined that the grievance was not upheld and that determination was in line with the Tribunal's consideration of these issues. Despite therefore the absence of the claimant at the grievance hearing the issues were fully examined within the Tribunal context and the Tribunal had no disquiet with the findings made by the grievance panel. That finding means that when the final redundancy consultation took place the Tribunal did not find evidence it was, at least at that stage, a "rigged and unfair process"

329. The final redundancy meeting was taken on 4 December 2019 and the agenda specifically included the scoring matrix on whether it was "fit for purpose". At that meeting the concerns of the claimant were noted. The claimant was shown at that meeting the scored matrix with the comment of Dr Abubaker. Mr Booth noted the matters of concern on her scoring and that of Dr Drammeh. Those comments were then considered by Dr Abubaker on a report from Mr Booth. Given the request that Dr Abubaker did not take further part in the consultation meetings it would appear the only practical way was to relay the comments made on the matrix and the scores through Mr Booth.

330. In the end no change was made to the criteria. Essentially the task for a Tribunal is to satisfy itself that the method of selection was not inherently unfair and that it was applied in the particular case in a reasonable fashion. Employers are therefore given a wide discretion on their choice of selection criteria and the manner in which they apply them. A Tribunal should only be entitled to interfere in those cases which fall at the extreme edges of the reasonableness band. It is not for a Tribunal to apply its own view of what the selection criteria should be rather than maintain focus on the employer's criteria.

331. It is the case that these criteria were a mixture of objective and subjective. The panel member of the Tribunal with experience in education matters considered that the criteria in this case were very much those which would be applied in that field. There was a concentration for the claimant on qualifications and publications but Dr Abubaker had access to that information by production of the information from the candidates and in any event "output/publications" was one of the criteria. In any event at the time the respondent priority was in teaching and it would not follow that qualifications make an individual a better teacher. The Tribunal did not consider that the criteria themselves could be described as being inherently unfair.

332. It was stated by the claimant's representative in the consultation that there was a lack of such measurable criterion as "discipline/attendance". That did not seem to be a necessary requirement for the selection criteria and in any event in this case could be dealt with under "performance". Neither

candidate had any disciplinary record so such a criterion would have made no difference. It was also suggested that the criteria be “approved by the union” but there was no recognised union in the college. Of course it is to be desired that selection criteria are agreed. Here they were agreed by one party but not the other.

333. A criticism of the scoring matrix was that it lacked measure and that it was not “ACAS compliant”. However, ACAS guidance would give as examples of selection criterion “standard of work or performance” and “skills qualifications or experience” as well as matters such as disciplinary record and attendance. In this case the criteria included “performance, skills, output/publications”. Other criteria related to the requirements the College would have from academic staff as it progressed. No assessments or appraisals had been conducted for academic staff to which reference could be made and so there was no failure to consider such material. The scoring for feedback from students was on the SQA courses. The Tribunal were satisfied that the feedback produced by the claimant was not available to the College because it did not appear on the hard drives. Neither was it produced by the claimant in the course of the redundancy consultation.

334. While there was a complaint about “weighting” the scoring criteria and that was indicated as a “problem” by the claimant, no weighting of the criteria was actually applied. It is not a necessary ingredient of a scoring exercise to apply weighting and if applied may lead to complaints that the result has been unfairly skewed. Here the Tribunal did not consider the lack of any weighting to be an issue of unfairness.

335. The Tribunal had the benefit of Dr Abubaker outlining the reasons why he gave particular scores to particular criterion for each of the two candidates and the Tribunal considered he had reasons and rationale for the scores which were applied.

336. On a review of the criteria the respondent did not consider that they would change the matrix. Given that the criteria were those that one might expect within the field and having had the opportunity of hearing how they were applied and the scores given the Tribunal did not consider that there

had been any inherent unfairness in the approach taken. In the scoring exercise the Tribunal were not of the view that there was bad faith or obvious error.

337. In ***Polkey v A E Dayton Services Limited [1988] ICR 142 (HL)*** Lord Bridge stated that

> "In the case of a redundancy …. the employer will normally not act reasonably unless he warns and consults any employees affected or their representative, adopts a fair basis on which to select for redundancy and takes such steps as may be reasonable to avoid or minimise redundancy by redeployment within his own organisation."

In this case there was warning and consultation; while the claimant will not agree the Tribunal did consider that there was a fair basis upon which to select for redundancy; and the only other alternative employment available was offered to the claimant.

338. As indicated the Tribunal did not consider Dr Abubaker entered the redundancy process with discriminatory motive and did not find there to be any discriminatory motive arising within the process itself. Once a grievance was raised he excused himself from the process barring the necessary exercise of scoring the individuals. It would have been better had he not been involved in that exercise but there was simply no other choice.

339. The events of the meeting of 3 September 2019 or display of the book on Dr Drammeh's desk did not for the Tribunal infer that either redundancy of the claimant was a foregone conclusion or there was a discriminatory motive.

Dr Drammeh inclusion in process

340. By the time the redundancy was effected the fixed term contract of Dr Drammeh had been renewed in November 2019. The Tribunal did consider that once included in the pool it was reasonable for the respondent to preserve the status quo and continue with him in the pool for selection. The process was delayed by intimation of the grievance. Also

given that the redundancy process was well through by November 2019 the reason for non-renewal could only be redundancy and there was potential that non-renewal would infringe the protection under regulation 3 of the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002.

Appeal

341. There was a right of appeal for the claimant which she exercised against both the grievance hearing and the redundancy. She was content with the hearing itself. There was blunt criticism addressed to the outcome letter from Lord Elder. He rejected the appeals. He gives brief reasons. He had made enquiry of College personnel and of HR Booth before making his response. If there had been fresh matters raised on appeal not taken into account or investigated that may have rendered the process unfair but it would not appear that arose. The basis of the appeal against the grievance and redundancy were in line with the points which were made as that process unfolded.

342. The Tribunal did not consider that the appeal decision being brief in its terms in dismissing the appeal rendered the process unfair.

343. In the whole circumstances the Tribunal was satisfied that there was a genuine redundancy situation; that was the reason for dismissal; and that a fair process had been followed.

344. In all the circumstances therefore the claims do not succeed.

Employment Judge:	**Jim Young**
Date of Judgment:	**27 May 2021**
Date sent to parties:	**27 May 2021**