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EMPLOYMENT TRIBUNALS

Claimant: **Ms W Gannon**

Respondent: **Verisure Services (UK) Ltd**

Heard at: **East London Hearing Centre**

On: **5, 6, 7 and 8 March 2019; and (in chambers) on 8 March 2019 and 18 April 2019**

Before: **Employment Judge C Hyde**

Members: **Ms J Owen**
Mr N J Turner OBE

Representation
Claimant: In person
Respondent: Ms K Moss (Counsel)

RESERVED JUDGMENT

The unanimous judgment of the Employment Tribunal was that: -

(1) The Respondent sexually harassed the Claimant section 26 of the Equality Act 2010 in that on 21 March 2018 Mr Desilva called members of the Claimant's team his "bitches" on a WhatsApp message.

(2) All other allegations of sex harassment were not well founded and were dismissed.

(3) The Respondent victimised the Claimant under section 27 of the Equality Act 2010 in that:

a. Because the Claimant had complained to Mr Vaz via WhatsApp from 22:41 to 23:19 on 21 March 2018 about the "*my bitches"* comment, she was subjected to the following detriment namely Mr Vaz said on 21 March 2018 at 23:18 that she was *"making the convo toxic"*;

b. **Further, because the Claimant had complained to Mr Vaz via WhatsApp about the "*my bitches*" comment from 22:41 to 23:19 on 21 March; and from 07:05 to 09:47 on 22 March 2018, she was subjected to the following detriments namely, Mr Vaz also said at 07:59 on 22 March 2018, *"if you not happy….. then find something else"*; and then removed the Claimant from the WhatsApp group at 09:50 on 22 March 2018.**

(4) **All other victimisation complaints were not well founded and were dismissed.**

(5) **The complaint of indirect sex discrimination under section 19 of the Equality Act 2010 was not well founded and was dismissed.**

(6) **The complaint that the Respondent had unlawfully deducted the sum of £647.58 from the Claimant's final pay was not well founded and was dismissed**.

REASONS

1 Reasons are provided for the judgment set out above because the judgment was reserved. The reasons are set out only to the extent that the Tribunal considers it necessary to do so in order for the parties to understand why they have won or lost. Further, they are set out only to the extent that it is proportionate to do so.

2 All findings of fact were reached on the balance of probabilities.

3 By a claim form which was presented on 14 May 2018, the Claimant complained of unlawful sex discrimination by way of harassment, indirect sex discrimination, and of victimisation under the Equality Act 2010. She also complained that the Respondent had made unlawful deductions from her wages. She initially named Mr Vaz her previous line manager and Mr Desilva who was a branch manager of another branch, as respondents in her claim. However, as her former employer did not seek to suggest that they would not be liable if the actions or omissions of the other Respondents were found to have been in breach of the law, it was agreed at the preliminary hearing which took place on 10 August 2018 that her former employer, Verisure Services (UK) Ltd (referred to hereafter as "Verisure"), would be the only Respondent.

4 In their response and grounds of resistance which were presented on 21 June 2018, the Respondent denied all the claims. They made some admissions in relation to the facts the Claimant relied on in certain of the allegations, but disputed that they amounted to breaches of the law. In respect of others, they denied that the matters the Claimant alleged were true.

5 The Tribunal also agreed with the parties that the spelling of Mr Desilva's last name should be amended from "De Silver", as it appeared in many of the documents in the case, to "Desilva".

6 The parties cooperated to compile the main hearing bundle and which the Tribunal marked [R1]. As is very frequently the case, unfortunately during the case of the hearing, various further documents were added by agreement to the bundles. Further, at the beginning of the hearing the Respondent had prepared a draft list of issues which the Tribunal adopted as it appeared to reflect the issues identified in the claim and the response. The Claimant did not dissent from this. This document was marked [R2]. Further, Ms Moss had prepared a chronology with page references which the Tribunal marked [R3]; and a cast list which identified the main people that the Tribunal would hear from or about and which also indicated their job roles at the relevant times. That document was marked [R4].

7 The Claimant gave her evidence first and relied on a statement which the Tribunal marked [C1] and which consisted of some 46 paragraphs over 11 pages of single spaced text. She called no witnesses on her behalf. The Tribunal then heard from witnesses on behalf of the Respondent and each gave evidence in chief by way of a witness statement as follows:

Mr Ricardo Almeida-Vaz [R5];
Mr Dwayne Desilva [R6];
Mr Carlos Barragan [R7]
Mrs Solmaz Zakikhany [R8].

8 At the Tribunal's request, the parties compiled lists of the members of the WhatsApp groups in March 2018 [C3] and in October 2016 [R9]. Especially in relation to the latter, the parties agreed that the list of names was compiled to the best of their recollection. They did not suggest that this was a complete list.

9 Both parties very helpfully presented their closing submissions in writing and supplemented these orally. The Tribunal heard first from Ms Moss whose written submissions were in a document which the Tribunal marked [R10] and Ms Gannon's summing up was in a document which the Tribunal marked [C4].

The issues

10 The contents of the List of Issues [R2] are largely repeated below, but have been amended by the Tribunal to reflect agreed amendments (such as Mr Desilva's name, and dates), or the dates and times of the alleged actions, which emerged from the evidence and which were uncontentious. The Tribunal's amendments are underlined.

Harassment (s.26 EqA 2010)

11 Did the following happen:

a. In January 2018 did Mr Vaz state there were "*hot new girls"* in the office and write the same on the paper board during a meeting?

b. On or around 14th March 2018 did Mr Vaz say to the C "*as a woman [she] has to work twice as hard to prove [her]self*"?

c. On the 21 March 2018 did Mr de Silva call members of the C's team his "*bitches*" on a WhatsApp message?

12 If so, was this conduct unwanted by the C?

13 If so, was this conduct related to her sex?

14 If so, did the conduct have the purpose or effect of violating C's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for her, considering: (a) her perception; (b) the other circumstances of the case; and (c) whether it is reasonable for the conduct to have that effect?

Victimisation (s.27 EqA 2010)

15 Did the C make an allegation (whether or not express) that R or another person had contravened the EqA 2010, by:

a. complaining to Mr Vaz via WhatsApp from 22:41 to 23:19 on 21st and from 07:05 to 09:47 on 22nd March about the "*my bitches*" comment;

b. further complaining that she had been "*discriminat[ed] against*" by way of a WhatsApp message sent at 16:49 on 22nd March 2018?

16 If so, was she subjected to the following detriments:

a. Mr Vaz said she was "*making the convo toxic*" at 11:18pm on 21 March 2018 and at 07:59 on 22 March 2018 "*if you not happy… then find something else*";

b. Mr Vaz removed the C from the WhatsApp group at 9.50am on 22 March 2018;

c. Mr Vaz requested that the C attend the workplace on two occasions whilst on annual leave in March 2018 (specifically from 25 to 28 March 2018)?

17 Was she subjected to those detriments because she did a protected act?

Indirect discrimination s.19 EqA 2010

18 Did the R have a provision, criterion or practice of encouraging their employees to change their place of work if they do not like the alleged "banter" of the R?

19 Was this PCP applied, or would the R apply it, to male and female employees?

20 Does it put, or would it put women at a particular disadvantage when compared with men?

21 Did it or would it put the C at that disadvantage?

22 Can the R show that it was a proportionate means of achieving a legitimate aim?

Unlawful deduction of wages s.13 ERA 1996

23 Did the R unlawfully deduct £647.58 from the C's final pay?

24 If so, was such a deduction unlawful?

Relevant law

25 *Harassment (s.26 EqA 2010)*

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

(4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account—
(a) the perception of B;
(b) the other circumstances of the case;
(c) whether it is reasonable for the conduct to have that effect.

26 The Tribunal was grateful to Miss Moss for including summaries of the relevant legal principles in her written submissions. With some minor amendments, her text is repeated below.

27 To determine whether a claimant's dignity has been violated reference should be had to ***Richmond Pharmacology v Dhaliwal*** [2009] ICR 724, EAT, where Mr Justice Underhill, then President of the EAT, said: '*Not every racially slanted adverse comment or conduct may constitute the violation of a person's dignity"*. Although that case concerned race harassment allegations, the same principles apply to sex harassment.

28 A single incident can amount to unwanted conduct and found a complaint of harassment if 'serious' (see para 7.8 EHRC Employment Code). In ***General Municipal and Boilermakers Union v Henderson*** 2015 IRLR 451, EAT, it was held that an isolated incident, in which the union's general secretary had shouted at H that he was 'too left wing' because he had told media organisations that Labour MPs were expected not to cross a picket line, could not constitute harassment because it had not reached the necessary degree of seriousness. In the EAT's view, it would '*trivialise the language of the statute*' to conclude that this was an act of unlawful harassment (upheld by the Court of Appeal [2017] IRLR 340, CA).

29 In ***HM Land Registry v Grant (Equality and Human Rights Commission intervening)*** [2011] ICR 1390, CA, Lord Justice Elias confirmed that '*When assessing the effect of a remark, the context in which it is given is always highly material. Everyday experience tells us that a humorous remark between friends may have a very different effect than exactly the same words spoken vindictively by a hostile speaker. It is not importing intent into the concept of effect to say that intent will generally be relevant to assessing effect. It will also be relevant to deciding whether the response of the alleged victim is reasonable.'*

30 *Victimisation (s.27 EqA 2010)*

(1) A person (A) victimises another person (B) if A subjects B to a detriment because—
(a) B does a protected act, or
(b) A believes that B has done, or may do, a protected act.

(2) Each of the following is a protected act—
(a) bringing proceedings under this Act;
(b) giving evidence or information in connection with proceedings under this Act;
(c) doing any other thing for the purposes of or in connection with this Act;
(d) making an allegation (whether or not express) that A or another person has contravened this Act.

31 In relation to whether a complaint amounts to a protected act, the EAT in ***Beneviste v Kingston University*** EAT 0393/05 upheld the tribunal's decision that the grievances complaining about a claimant's treatment but not saying it was on the grounds of sex or race, could not amount to protected acts. A claim does not identify a protected act in the true legal sense '*merely by making a reference to a criticism, grievance or complaint without suggesting that the criticism, grievance or complaint was in some sense an allegation of discrimination or otherwise a contravention of the legislation*'.

32 The Tribunal referred to the case of ***Nagarajan v London Regional Transport*** [1999] IRLR 572 HL in relation to the issue of causation.

33 The **EHRC Employment Code**, at paras 9.8 and 9.9, draws on the case law, including the House of Lords judgment in ***Shamoon v Chief Constable of the Royal Ulster Constabulary*** [2003] ICR 337 in stating in relation to "detriment":

> '*Generally, a detriment is anything which the individual concerned might reasonably consider changed their position for the worse or put them at a disadvantage* (see examples given)... *There is no need to demonstrate physical or economic consequences. However, an unjustified sense of grievance alone would not be enough to establish detriment*'.

34 Indirect discrimination s.19 EqA 2010

(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.

(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—

(a)A applies, or would apply, it to persons with whom B does not share the characteristic,

(b)it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,

(c)it puts, or would put, B at that disadvantage, and

(d) A cannot show it to be a proportionate means of achieving a legitimate aim.

(3) The relevant protected characteristics [include]—

….sex.

35 Unlawful deduction of wages s.13 ERA 1996

36 Section 13 of the Employment Rights Act 1996 gives employees the right not to suffer unauthorised deductions. The Tribunal has the power to determine a breach of this section by virtue of section 23 of the same Act. Thus, section 13(1) provides that an employer shall not make a deduction from wages of a worker employed by him unless—

(a) the deduction is required or authorised to be made by virtue of a statutory provision or a relevant provision of the worker's contract, or

(b) the worker has previously signified in writing his agreement or consent to the making of the deduction.

Findings of fact and conclusions

37 The Claimant commenced employment with Verisure on 26 July 2016 as a Security Consultant. The business of the Respondent was the selling of security products and installing and maintaining them in both private homes and commercial premises. Verisure was described in the case management summary sent after the closed preliminary hearing in August 2018 by Employment Judge Prichard as a sizeable employer which had 18 branches in the UK and part of Securitas Direct that formed it and that it was the largest security provider in Europe. There was no evidence produced which suggested that this was not a fairly accurate description.

38 The role of Security Consultant was effectively a sales role and the most junior within the Respondent. The next senior position was that of Team Leader in training followed by Team Leader, and then Branch Manager. Above that was the role of Regional Manager. The Regional Manager in this case, Mr Barragan, was responsible for five branches in around Essex and the London area.

39 During the course of the Claimant's employment she held various posts, namely Security Consultant from July 2016 to February 2017, Team Leader in training from February 2017 to August 2017 (pp.110-111); Sales Training from 1 August to 1 November 2017; and then Team Leader from 1 November 2017 to about 14 March 2018 when she resigned from that post (p.181) and returned to the Security Consultant role. This was the role she occupied when she resigned from her employment on 9 April 2018.

40 In these posts she also had various line managers, as set out below.

41 A feature of the evidence was that there was a considerable amount of contemporaneously generated evidence by way of mobile phone messaging, mostly on WhatsApp but also by text. There was also some email correspondence. The Tribunal considered that this was very important evidence about what was being said and done at the time.

42 There were sales targets or expectations although these did not appear to have been set in stone. The security consultants' pay was supplemented by bonuses or commissions based on the number of sales that they "converted" from the leads which they had been given or which they themselves created. Further, the team leader

benefited financially to a certain extent from the conversions of their team members, as did the branch manager. The Team Leader commission rates were set out at p.86

43 The security consultants were classified into four categories. First, they were "new in consolidation" which meant that they were new and had less than five months' service and had not yet generated up to five sales.

44 The next category was "new consolidated" which referred to new security consultants who had less than five months' service but who had generated five sales and above.

45 Next were "veterans in consolidation" namely those with more than five months' service but who had not yet achieved five sales; and finally, "veterans consolidated" who were people with more than five months' service and who had also generated more than five sales.

46 There were tables within the bundle which identified the composition of the Claimant's teams at various stages by reference to the number of security consultants in her team in each of those categories. Unfortunately, they were extremely difficult to decipher. There were also no similar figures for the other Team Leaders which the Tribunal could compare the Claimant's performance against.

47 The Claimant was based at the Southend-on-Sea branch, and the Regional Manager Carlos Barragan, her second line manager, was based at the Romford branch. The members of the team in each branch had formed separate WhatsApp groups. However, Mr Barragan was also a member of the Southend-on-Sea branch.

48 Mr Barragan had worked for the Respondent in one of its offices in Spain. From 2005 he was a Branch Manager there. He then started working in the UK when he took up the post of Regional Manager in 2015. He was responsible for the branches in his region which were in Romford, Southend-on-Sea, South East (Catford), Brighton and Southampton.

49 The branch manager of the Romford branch from August 2017 was Dwyane Desilva. He had worked with the Respondent since July 2015. He appeared to have been based at a different branch prior to August 2017.

50 Robert Palmer, the manager of the Southend-on-Sea branch, posted an explicit pornographic picture of a woman on the Team's WhatsApp group in October 2016 (p.105). It showed her naked, with her legs apart and pulled back towards her face, and had been taken pointing at her genital area which appeared to be shaved.

51 The members of the WhatsApp group at the time were Mr Palmer, the branch manager; Jason Elliston, Team Leader at the time; Adam Dugdale, a recently recruited security consultant; Gary Witchell, Coach; the Claimant who was a newly recruited security consultant; Tony Page, also a newly recruited security consultant; as was Ismahan Osman [R9].

52 The pornographic image was sent on 27 October 2016. By an email sent by the Claimant to Mrs Zakikhany, HR Co-ordinator at 0937 on 4 November 2016, she stated

that she wanted to complain about the conduct of her manager, Robert Palmer (p106). She cited having received what she described as a horrible phone call from him on 4 November after she had made what she described as a funny comment about a list of people who needed to do DBS checks appeared on the group chat. Further, she complained that she regularly received comments of a sexual nature from Mr Palmer and that he had posted a pornographic picture on the group chat. She said that she wished to make a formal complaint about it as it was getting out of control. She did not send a copy of the photograph with the email. Mrs Zakikhany responded by email dated 4 November 2016 (p.106) acknowledging the message from the Claimant and indicating that she had shared the information with Mrs Pinchard and that they would get back to the Claimant as soon as possible.

53 At the time Mrs Zakikhany was in the role of HR Coordinator which she described as effectively being an HR adviser. The Tribunal was satisfied that it was Mrs Pinchard who had responsibility for dealing with this issue or giving further direction to Mrs Zakikhany about it. Mrs Pinchard was no longer in post, having transferred to a post with the Respondent in France.

54 The Claimant responded to Mrs Zakikhany on 7 November 2016 acknowledging her quick response. However, she continued:

> "*I will be speaking to Rob/Carlos to resolve the issue in informal way today or tomorrow. If that will have very little or no effect in the future I will ask to actually make a formal complaint. At this stage at least there is a record of that. So I will be not taking further action myself and hopefully will not have to do it in the future. Thank you again for your help*."

55 Having received this document from the Claimant no further action was taken by the Human Resources Department about Mr Palmer. The Tribunal accepted that it was appropriate not to proceed with the Claimant's formal complaint as she had, by her second email, in effect asked for it to be put in abeyance unless she wished to revive it. However, the Tribunal considered it surprising that she was not asked to send a copy of the photograph to the Human Resources Department. Mrs Zakikhany's evidence was that they sometimes received complaints from people which turned out not to be substantiated.

56 It was agreed by the parties that no formal action was taken in relation to Mr Palmer's action of posting the pornographic picture until Luke Pettican, a member of staff who was facing disciplinary action for performance and/or was contemplating resignation, forwarded the image to Pauline Pinchard who was at the time UK HR Manager, by email sent on 24 March 2017 (p.128d). Mr Pettican had been on a performance improvement plan from Monday 20 March 2017.

57 Alongside Ms Zakikhany's evidence about why no further action was taken in November 2016, the Tribunal took into account that Mr Barragan was the Regional Manager at the time and that he had been a member of the group which received the photograph on the group chat. His evidence to the Tribunal which the Tribunal rejected on the balance of probabilities, was that at the time that the photograph had been sent by Mr Palmer, he had raised this with Mrs Pinchard. He also gave evidence to the effect that he had had a word with Mr Palmer about the inappropriateness of sending

such images. The Tribunal also found this evidence unconvincing. There was no contemporaneous evidence whatsoever of this having occurred. Nor did any of the documentation in March 2017 when formal action was taken by the Respondent, refer back to these alleged actions by him. It was evidence given for the first time in the witness box in answer to questions from the Tribunal. Further, it appeared inconsistent with the position later taken by Mr Barragan in that, having on his account already rapped Mr Palmer across the knuckles in October/November 2016 for posting this obscene photograph, he then took formal action against him in relation to the same incident once it had been formally reported by Mr Pettican some 5 months later.

58 The Tribunal considered that the failure by the more senior members of staff on that group chat to have publicly disapproved of the image being circulated was extremely regrettable. It provided some support for the Claimant's case that this was evidence of a disrespectful attitude towards women being tolerated at the workplace.

59 Finally, the Tribunal noted that there was one of the recipients of the photograph who immediately expressed some disapproval, namely Jason Elliston, referred to on the group chat as "Jason Verisure".

60 Further, the Tribunal was not taken to any policy statement or notification to their staff by the Respondent about what direction had been given to their employees about what was appropriate and inappropriate language to use in the workplace.

61 In reaching our conclusions about this, the Tribunal fully took into account that this was a sales environment. However, we also distinguished the standards which might be acceptable among friends, from those which applied in a work situation among work colleagues.

62 The arguments which were deployed in relation to the subsequent complaint in this Tribunal about the use of the expression "*you are all my bitches*" which was used by Mr Desilva in the later WhatsApp message on 21 March 2018 to the effect that this was a harmless way of prodding the Southend-on-Sea group to achieve higher performance, by creating a friendly rivalry (p229), were not deployed to justify the photograph which Mr Palmer circulated.

63 When the matter was formally raised and a copy of the photograph was sent by Mr Pettican to HR on 24 March 2017, the Respondent acted very promptly and Mr Palmer was dismissed on 28 March 2017. It was unclear precisely what process was followed. It was a theme of the evidence in this case that the usual acceptable employment practices in relation to disciplinary matters, equal opportunities recruitment etc, did not appear to have been embedded in any way in this workplace.

64 The Human Resources records about the termination of Mr Palmer's employment described the picture as "highly inappropriate, sexual, and indecent".

65 The security consultant, Luke Pettican, was dismissed by his team leader Jason Elliston on 29 March 2017. His employment had started on 3 January 2017 (p.108).

66 It was said by the Claimant that Mr Pettican had been dismissed because he had raised the issue of the pornographic photograph and also other complaints about

the Respondent. It did not appear to be disputed that his performance as a salesman was extremely poor. He was only put on a PIP on 21 March 2018 and appears to have been dismissed just over a week later. The Tribunal had no evidence about the timeframes in which PIPs operated in other cases.

67 Ms Pinchard informed, among other people, the Managing Director of the UK company Gabino Sanchez of the position in relation to the termination of the employment of Robert Palmer and about the way in which Luke Pettican was dealt with (p.128). The Tribunal noted that she reported in the email sent in the very early hours of 28 March 2017 that the Respondent would continue with the performance management process of Mr Pettican and "*dismiss him based on performance*". This letter was dated 28 March 2017, the day before he was dismissed. This was one example of the Respondent indicating their intention to dismiss someone before the process has been entered into.

68 It appeared also that the Respondent had some, on the face of it, well placed reasons for not trusting Mr Pettican at this stage. These centred on a letter sent to them by email purporting to be from a solicitor acting on his behalf but which Ms Pinchard did not believe to be genuine and which the Tribunal also considered to be suspect (pp.128B-128C).

69 Also, the Claimant had contacted HR about the photograph when it was initially sent out and she had not been dismissed until a considerable time later. Indeed, she did not rely on that complaint as a protected act in her victimisation complaint.

70 The Tribunal did not consider therefore, on the balance of probabilities, that the evidence before us was sufficient to indicate that Mr Pettican had been dismissed because he had reported the misdeeds of Mr Palmer or made complaints about the running of the Southend-on-Sea branch.

71 In May 2017, Ricardo Almeida Vaz became the new branch manager of the Southend-on-Sea branch. He worked for the Respondent as a team leader when he started his employment with them in August 2015 until May 2017 when he was promoted to the manager of the Southend-on-Sea branch, on Mr Palmer's departure. Mr Vaz had worked in the sales environment ever since leaving school in about 2012/13 at the age of 18. It was not in dispute that his promotion to Branch Manager was not the subject of a competitive or formal process. He described in his witness statement (para 4) that he was approached by the Regional Manager Carlos Barragan, who told him that the role of Branch Manager was available at the Southend-on-Sea branch. Mr Barragan asked him whether he wanted to take up the Branch Manager role. Mr Vaz accepted and started the role almost straightaway.

72 The Tribunal was informed that there are certain vacancies within the Respondent which are circulated to the staff generally. However, there were also numerous positions which were filled in the way described above. The Tribunal observed that this latter method of selection for promotion colloquially referred to as a "tap on the shoulder" used to be common place many decades ago, but was no longer seen as consistent with equal opportunities or good employment practice.

73 The Respondent's workforce was extremely diverse in terms of race. There was a predominance of male employees but approximately a quarter of the members of staff at the material times was female.

74 Mr Vaz as Branch Manager had first line responsibility for about 15 – 20 members of staff at any one time (based on his recollection in oral evidence and on the numbers which were set out in the documents at pp158a and 145a). He had no knowledge of the ACAS Code of Practice on discipline and appeared unfamiliar with what are generally considered to be the ordinary good employment practices in terms of recruitment and discipline. He relied on his record as a team leader in Romford where he described that he had been performing "quite well". He described that he had been asked to manage the lowest performing team within the branch and that he had been able to dramatically improve their performance. This attested to his skills as a salesperson, but in the Tribunal's view did not on its own, equip him to be a manager. There was no process within the Respondent at the time for ensuring that staff members with managerial or indeed supervisory roles had the necessary management and equality knowledge. More importantly, because the Tribunal does not criticise Mr Vaz in any way for taking up an opportunity to advance his career, Mr Barragan who promoted him, also appeared to be quite oblivious to these requirements of modern employment law.

75 The Claimant, who was managed by Mr Vaz when he took over from Mr Palmer, then applied to be a sales trainer with effect from 1 August 2017. When the role was confirmed to her by letter dated 4 August 2017 (p.167) her line manager was to be Mr de Gregorio, Recruitment and Training Sales Manager.

76 Just before she made this move the Claimant's team had returned extremely good results, such that she was identified in the top five or so team leaders in the country. She thus received awards in June and July 2017 (p.163). In that time frame, the Claimant had a security consultant by the name of "Ash" who returned phenomenal sales, in excess of those generated by anyone else and he was quickly promoted by Mr Vaz to Team Leader from August 2017.

77 It was apparent from the Claimant's claim form, witness statement and oral evidence that one of her frustrations was the inability to control who was in her team and a feeling that as soon as she assisted the sales consultants to become established by achieving a certain level of performance, they were moved from her team. The Tribunal could not resolve this issue because we did not have sufficient evidence before us and indeed this was not one of the issues for us to decide. This concern was also expressed by her in relation to another member of her team Georgia (p.159).

78 It was shortly after the Claimant expressed this concern in a chat conversation with Mr Vaz in the first week of July 2017 (p.159) that she sounded him out about the sales trainer position which had been publicly circulated. She indicated that she would be interested in this on 11 July 2017 (p.160).

79 Mr Vaz appeared to be very supportive towards the Claimant and encouraging, consistent with his role as her Branch Manager.

80 There was further contemporaneous evidence in mid-October 2017, while she was in the position of Sales Trainer, of the Claimant discussing with Mr Vaz, the possibility of returning to a Team Leader position in his branch (p.173). This represented a promotion from the position of Sales Trainer. As part of selling this proposition to him she promised that her team would achieve "30+" sales and she also asked for two particular members of staff to be on her team.

81 In reply, Mr Vaz indicated that he would need to chat with the Claimant about this because her boss at the time (Jack Morley) "might not want to lose you". He then referred to being reluctant to have "the same clashes" that he and the Claimant used to have before when she worked at his branch. He informed the Claimant that he was very happy with the way the branch was functioning at that time and that he wanted this to continue. He was not sure, he told the Claimant, whether she would be prepared to "follow things" as they were at the time.

82 The Tribunal had little doubt that the Claimant had a very strong personality. It appeared to the Tribunal, that she approached any task with gusto and determination.

83 The Claimant expressed appreciation for his explanation of his position about her request to move back to his team (p.174). The Tribunal had no more contemporaneous information about this but Mr Vaz must have accepted the proposal because in due course the Claimant returned to his team with effect from 1 November 2017 as Team Leader (p.170).

84 The Tribunal had evidence that around about Christmas time in 2017 the Claimant expressed her gratitude to Mr Vaz for his support for her at what she described as her "worst time" (p.175). There was reference to the Claimant having in her own words "gone over the top" at the Respondent's recent Christmas party and there was also reference by the Claimant to another incident where she had apparently lost her cool with another employee of the Respondent and she mused that she owed her colleague an apology (p.176).

85 The Tribunal was also satisfied that the Claimant who described that she had obtained two degrees, was intelligent and confident. There was, for example, no evidence that any other member of staff had referred the issue of Mr Palmer's pornographic photograph to the Human Resources Department at the time the event occurred.

Sex harassment allegations

January 2018 – "hot new girls" comment by Rico Vaz

86 The first substantive allegation chronologically was that in January 2018, Mr Vaz stated that there were "hot new girls" in the office and wrote the same on the paperboard during a meeting. This was said to constitute sex harassment.

87 Mr Vaz was named as the Third Respondent in the claim form which was settled by a firm of solicitors. By the time of the preliminary hearing in August 2018, the firm no longer acted for the Claimant. In the rider to the claim form, at paragraphs 7 and 20a it was alleged that in January 2018 there was an incident during a team meeting

whereby the Third Respondent, who was holding a meeting, said to those in attendance that there were “new hot girls” employed in the office – a reference to Headquarters - and that the Third Respondent wrote the same on a paperboard during the meeting.

88 Ms Moss argued that this allegation was undermined by the fact that the Claimant had made “an earlier false allegation” of use of inappropriate sexual language by Mr Vaz, which she had not pursued and which she belatedly attributed in her witness statement to Mr Palmer, because, said the Respondent, Mr Palmer was not a witness. It was necessary therefore first to assess the position in relation to this earlier allegation.

89 In her claim form at paragraph 3, the Claimant had alleged that in February 2017, the Third Respondent had said to the Claimant that she should “stand in a bikini to increase sales”. That was listed as part of the background and was not repeated in the part of the claim in which the substantive complaints were being made.

90 In an email sent to the Tribunal and copied to the Respondent on 1 August 2018, the Claimant attached her list of issues in anticipation of the closed preliminary hearing which took place on 10 August 2018. She repeated in a spreadsheet of the issues under both the headings of legal issues and factual issues, two of the three columns in that spreadsheet that the person who had made the “new hot girls” comment in January 2018 was the Third Respondent. She did not refer to the February 2017 “bikini” comment in her List of Issues.

91 However, in section 2.2 of the Claimant’s agenda in answer to the question whether there was any application to amend the claim or response she said “there will be few amendments to the case. Presented at PH”.

92 There was no reference in the case management summary to this allegation or any application to amend it. However, as set out above, the February 2017 “bikini” comment was not said to be a substantive allegation.

93 The Claimant’s position in paragraph 8 of her witness statement was that the “bikini” comment was made by Mr Palmer, not by the Third Respondent/Mr Vaz. When the discrepancy was put to her in oral evidence, she maintained that the solicitors who had prepared the claim form had made a mistake in paragraph 3 of the details of the claim in attributing this statement to Mr Vaz and not to Mr Palmer. She also said that this was what she was referring to when she said before the Closed Preliminary Hearing (“CPH”) that there would be a few amendments.

94 The Claimant was quite adamant in her evidence and in the hearing generally, that she had never intended this to be an allegation against Mr Vaz. Indeed, in February 2017, the Claimant was working as a Team Leader in training in Mr Palmer’s team in Southend-on-sea. Further Mr Vaz did not become a branch manager until May 2017 when he took over after Mr Palmer was dismissed. Prior to that he had worked at the Romford branch. Also, this background allegation is consistent with the Claimant’s report to HR in November 2016 about Mr Palmer making sexually inappropriate comments to her.

95 The Tribunal considered that there may well have been some misunderstanding when this was discussed in the Tribunal between the Respondent's Counsel and the Tribunal because the Tribunal referred to the Claimant's list of issues and agenda for the preliminary hearing from the copy on the file and Ms Moss did not have copies of these documents available to her at the same time. Also, Counsel who acted for the Respondent at the CPH was not the same Counsel who appeared in this hearing. The Tribunal therefore could not be sure that the matter had not been raised by the Claimant at the earlier hearing.

96 It seemed to the Tribunal that Ms Moss may have misunderstood the comments that the Claimant had attributed to Mr Vaz/the Third Respondent in her List of Issues for the preliminary hearing, as the Claimant did not refer to the February 2017 "bikini" comments in that document. She stated in the List of Issues, as she did in the witness statement that the first substantive allegation was against Mr Vaz in relation to the "hot new girls" comment.

97 In all the circumstances, therefore, the Tribunal did not consider that it was likely on the balance of probabilities that this was evidence of the Claimant having made a prior "false allegation" against Mr Vaz as Ms Moss argued.

98 The Tribunal went on to make findings in relation to the January 2018 allegation.

99 The Tribunal accepted the Respondent's submission that there was no contemporaneous record by the Claimant or anyone else of this comment having been made. The Tribunal noted that in relation to the photograph and then subsequently the DaSilva comment about "you're all my bitches" in March 2018, the Claimant's responses had been fairly prompt.

100 The Tribunal also had regard to the messaging between the Claimant and Mr Vaz at about this time and there was no reference to any complaint by the Claimant about Mr Vaz having spoken inappropriately. Indeed, she subsequently referred during the discussion with him about the "bitches" comment in March 2018, to the fact that she respected him and that she had never said a bad word about him.

101 Mr Vaz denied the allegation completely. Further, there was no evidence of his having said anything of this nature prior to January 2018. He was not on the group chat of Southend-on-Sea prior to his becoming branch manager in May 2017.

102 In all the circumstances, the Tribunal accepted on the balance of probabilities that Mr Vaz had not made the comment alleged by the Claimant. There was further no corroboration of the Claimant's account from anyone else.

103 That allegation was therefore not well-founded and was dismissed.

14 March 2018 – that Mr Vaz told the Claimant that as a woman she had to work twice as hard to prove herself

104 The second allegation was an allegation of harassment, namely that on or around 14 March 2018, Mr Vaz said to the Claimant that "as a woman [she] has to work twice as hard to prove [her]self".

105 The Claimant described the context to this comment, for the first time, in her witness statement. It was not in dispute that by a text message sent on 5 March 2018 (p.178) a male customer sent a very stridently worded and abusive message to the Claimant demanding that she stop messaging him and that he considered her persistence to be harassment.

106 The Tribunal had evidence of an exchange of messaging between the Claimant and Mr Vaz (p.179) on the same day in which he was supportive to her about the fact that she had been the recipient of this offensive message. He referred to the importance of keeping her spirits up and that she should try to turn a negative situation into a positive. Although some of the abuse directed at her was in terms which referred to female parts of the body, one of the points that the Claimant herself made at the start of the exchange with Mr Vaz was that she was aware that her male team-mates at the time also got told to make themselves scarce in rather offensive language (p.179).

107 In the course of a face-to-face conversation following on from this, Mr Vaz told her words to the effect that it was a tough business and that as a woman she may have to work twice as hard to prove herself. The Claimant referred back to this conversation in a message to Mr Vaz on 29 March 2018 (p.310). However, in her witness statement at para 31, the Claimant herself said that Rico Vaz "tried to lift my spirits up" when he made this comment.

108 The Tribunal considered that it was very clear from the context that Mr Vaz intended this to be encouraging. Mr Vaz described the broader context, namely that he had used the analogy with the position of Rosa Parkes, a black United States Citizen who in the early 1960s or late 1950s had sat in a part of the bus which Black people were not allowed to sit in, as a protest against the segregation laws. Ms Gannon who is of Polish origin, indicated to the Tribunal that she was not aware of the story of Rosa Parkes. The Tribunal considered that this was one of a few examples in this case where there was misunderstanding caused by the members of staff coming from different cultures, and that they could not be expected to have detailed knowledge of each other's cultures. Mr Vaz described himself as Black. The Tribunal would have been surprised if he in turn knew as much about Polish history and culture as the Claimant did.

109 This was thus not a criticism of the Claimant but an explanation as to why she may well have misunderstood what Mr Vaz was saying to her, and a relevant context against which to determine if his comment to her was sex harassment. His use of the example of a Black woman in the days of segregation in the United States was intended to empathise with her and to signal to her that he understood the position that she was in, but to encourage her, albeit that he acknowledged that she faced unjustified obstacles as a woman.

110 In determining whether what was said to her was detrimental, the Tribunal considered that he was not actually saying to her that it was a requirement that the Claimant should work twice as hard as a man in order to prove herself. He was acknowledging that this was sometimes was required by others, albeit unfairly. He was empathising from the point of view of someone who also faced obstacles, namely as a Black man. The Tribunal therefore did not consider that Mr Vaz was subjecting the Claimant to a detriment.

111 Further, in relation to the requirements of harassment, the Tribunal was satisfied that it was not the intention of Mr Vaz to violate the Claimant's dignity or create an intimidating, hostile or degrading environment for her.

112 The next question therefore was whether it had that effect. The Tribunal took into account the Claimant's perception which was that this was the effect but also the other circumstances of the case, namely the context which both parties agreed was encouraging and whether it was reasonable for the conduct to have had that effect. The Tribunal considers that it was not reasonable for the conduct to have the effect. In the context described by the Claimant it was encouraging and therefore it was not reasonable for her to take it as detrimental or harassment.

113 The facts of this allegation were considered against the guidance in the authorities that Ms Moss referred the Tribunal to and especially the dicta in the *Dhaliwal* and *GMB v Henderson* cases.

114 This allegation was therefore not well-founded and was dismissed.

21 March 2018 – Dwayne DeSilva's "bitches" comment

115 The last harassment allegation was that on 21 March 2018, Mr Desilva called the members of the Claimant's team his "bitches" on a WhatsApp message. In the agreed list of issues [R2], this was erroneously stated to have occurred on 22 March 2018. However, it was agreed by reference to the agreed written evidence of the chat (p.311) that this comment had been made late in the evening at 22:39 on 21 March 2018. This was said to amount to harassment under section 26 and by reference to the protected characteristic of sex in the sense of gender.

116 The Tribunal was taken to numerous records of the group chat in the bundle by the Respondent in order to demonstrate the context of the contentious message. The Tribunal was satisfied that the chat was used as a means of keeping the team members motivated and of keeping them up-to-date with certain information about leads and productivity.

117 On 21 March 2018, there were 20 members of the Southend-on-Sea WhatsApp group of whom six including the Claimant, were female. They were mostly members of staff at the Southend-on-Sea branch. The exceptions were Mr Barragan the Regional Manager; Mr Desilva manager of the Romford branch who was brought into the chat by Mr Vaz; two male installers working from the Romford branch; and a female sales coordinator also working from the Romford branch. The evidence was that Mr Vaz had brought Mr Desilva into the WhatsApp group because they had had a friendly competitive relationship since they both worked in the same branch, that Mr Vaz had found this to be helpful and therefore wished to bring about the same effect with his team in Southend-on-Sea.

118 The messages of the Southend-on-Sea group referred to as "Verisure Essex branch number 1" contained a lot of encouraging words amongst the members of the group and the use of emojis such as flames and smiley faces. There was also occasional use of 'gifs'.

119 Shortly before the post that was complained about, the discussion was very much about congratulating one of the colleagues referred to as Petrit, a male security consultant who had apparently just completed a sale. He shared with the team that he was extremely tired such that he could not feel his legs from having done such a lot of work. He was congratulated for this effort by another colleague. Then apparently out of the blue Mr Desilva posted the message set out below. It was followed by an upside down smiley face. He then followed it by the words "east east east" and an emoji of a strong arm. The Tribunal considered, based on the evidence about the post which was largely agreed as it was documented, that it was quite clear that he was seeking to provoke a response from the Southend-on-Sea group and was gloating that his branch was performing better. His branch, the Romford branch was referred to as "east". The shorthand for Southend-on-Sea in the messages and in the names of the participants in the group was "SOS".

120 The page references for the 21 March 2018 chat and the comment from Mr Desilva were pages 198 and 311-312. The Tribunal was grateful to Ms Moss for citing some of the relevant parts of the exchanges in her chronology. That text has been cut and pasted below and supplemented by the Tribunal to give a slightly fuller context to the relevant exchanges. As is to be expected in such exchanges, there were many spelling and grammatical errors. The Tribunal did not consider it proportionate to include all of the exchanges, not least because the agreed transcripts of these are readily available to both parties. The following extracts have attempted to capture the main messages from the Claimant ("C"), Mr Desilva ("DDS"), Mr Vaz ("RJAV") and Mr Barragan ("CB") on the first group chat late on 21 March 2018.

> DDS put a message on the WhatsApp group saying: "*Listen guys! I've come to the conclusion that your all my bitches* (upside-down smiley face emoji)" [311]
>
> DDS: *"East East East!* (strong arm emoji)
>
> RJAV: *"Get out of here* ☹
>
> C: *"Erhm"*
>
> Petrit: "Lol"
>
> C: "*Well maybe you should stop smoking drugs" [311]*
>
> Asif: *"SOS SOS SOS"*
>
> *C: "DWANE"*
>
> *"Nobody is your bitches"*
>
> Petrit: *"I don't care bitch or not as long as I do 12 sales a month a d vet 3-4k£ a month"*
>
> DDS: *"Well you guys can talk to use* (sic) *when your doing 12 colds a day!* (emoji followed indicating amusement)
>
> *C: "Nobody is taking drugs"*

…"here"[311]

(A couple of entries later) *DDS (to C): "Maybe you should, you should might help you sell (laughing emoji)" [311]*

C: "I'm sorry???"…

Mr Vaz then followed with a line of emojis followed by: *"Guys lets not take this trash talk from east"*

(A couple of entries later) *C:"Rico tell him to stop he is off his head"… [311]*

(About a dozen entries and 25 mins later) *C: "First of all enough of drugs here" "Im fed up with it or tolerate it all together" "In this company is pretty much a norm"… [311-312]*

RJAV: "Anyways guys"

C: "Is not anyways"

RJAV: "Lets not let wast (all agreed this should have read "east"] *trash talk.us"*

RJAV: "Lwts keep it moving we will kick there ass tomorrow"

C: "If I get dismissed past this comment I will take it very seriously all situation"

CB: "I think everyone knows Dwayne and he said this to pump up you guys, wish he will say this to the south east branch.

Hope tomorrow will be better stil over a week ahead so don't give up guys, tomorrow more and better.

Rest well everyone (thank you, 100% and heart emojis)" [312]

121 Mr Vaz immediately responded to Mr Desilva's comment as can be seen above. He accepted in evidence that this was simply a continuation by him of what he described as the "banter". The Respondent did not suggest that Mr Vaz was 'pulling Mr Desilva up' for his comment. Mr Vaz's case was that he had asked Mr Desilva to say something on the chat to gear up Mr Vaz's team. Mr Desilva and Mr Vaz were very clear in their evidence that Mr Vaz had not told Mr Desilva precisely what to say. The Tribunal did not consider that this was material because as set out below, the Tribunal considered that at the time Mr Vaz did not criticise Mr Desilva's comment to the knowledge of the rest of the group. On the contrary, he criticised the Claimant on more than one occasion in their messages for objecting to the expression used by Mr Desilva.

122 It was not in dispute that over the next 40 minutes or so this exchange continued until Mr Vaz started a private chat with the Claimant at 23:11 on 21 March (p302).

123 No other female member of the team contributed to the group chat. This may have been due to the time of day because the chat lasted from 22:39 approximately to 23:18. However, when the group chat resumed the next morning, similarly there were no female contributors. Once again, there was no evidence about why this was.

124 Of the male contributors that evening which included Mr Barragan, Ash, Petrit, Mr Vaz, Mr Desilva and Surachi, Surachi was the only one of the men to express an implied criticism of Mr Desilva's comment. Mr Barragan's one contribution was to follow a similar line to that taken by Mr Vaz which was to say, on the group chat, that it was obvious that Mr Desilva had said this to pump up "you guys".

125 It was necessary to make some findings about the references to taking drugs, and the other allegations of misconduct made by the Claimant about some of her colleagues. The Respondent argued that this was the reason for any adverse treatment, not her complaints about the "bitches comment".

126 As appears from the transcript above, the reference to people smoking drugs was indeed the Claimant's first substantive response to the comment made by Mr Desilva, although she had made the short interjection "*Erhm*" which the Tribunal considered could not be interpreted as an expression of approval. Mr Vaz confirmed that he understood at the time that she was having a dig at Mr Desilva when she said that he should stop smoking drugs. He thought that it might have been part of the banter. The Tribunal asked the Claimant why she had made a reference to smoking drugs and she said that she considered that perhaps Mr Desilva was "on something" which would have led him to make the comment about "my bitches".

127 Mr Desilva's response to the Claimant's drug use comment was: "well you guys can talk to use (sic) when your doing 12 colds a day!" The Tribunal accepted the Respondent's submission that Mr Desilva had meant to type the word "us" not "use", as the substitution of the word "us" for "use" in te sentence made sense in a way that "use" did not. The reference to "colds" was a reference to cold leads. These apparently yielded the highest bonus if they were converted to sales.

128 The Tribunal also accepted that the Claimant misunderstood the word "use" to be a reference to using drugs. The Tribunal bore in mind that these exchanges were taking place at some speed and by now the Claimant was clearly upset about the use of the "bitches" comment. It was also relevant that English was not her first language and we accepted that she genuinely understood Mr Desilva to be referring to the use of drugs. Hence her response "nobody is taking drugs here". The Tribunal accepted that Mr Vaz then did not continue at this stage with any criticisms of either Mr Desilva or the Claimant but made neutral comments such as "you had 1 good day dont worry we gona take oveer soon".

129 In response to the Claimant's protestations about no-one taking drugs there, Mr Desilva said "may be you should, you should might help you sell". Mr Desilva said that he believed that the Claimant's further comment had been said as a riposte to his banter. The Claimant expressed upset about this further comment from Mr Desilva by

writing “I’m sorry???”. The Claimant then clearly pleaded with Mr Vaz on the chat to “tell him to stop he is off his head”.

130 Mr Desilva, who the Tribunal did not consider to be an exemplar of sensitivity, continued by asking the Claimant how many sales she had. The Claimant, the Tribunal considered rightly, interpreted this as a sarcastic comment. The Tribunal considered that Mr Desilva saw it as part of the continuing “banter”. She responded by saying she was turning off her phone and although Mr Vaz made a further contribution which was not in offensive terms, Mr Surachi then made his contribution. The Claimant then returned to the issue of drug use.

131 It was clear, the Tribunal considered, that Mr Vaz was upset about what he called at the start of the private chat with the Claimant (p302), the “constant talk of drugs” on the group chat [23:11 – 23:13]. He considered that what the Claimant was saying was getting a bit too much. When the Claimant challenged this, he said: “nothing was said to offend you. Everyone took the banter the right way.” The Tribunal considered that this exchange indicated that Mr Vaz was clearly upset about the reference to the use of drugs by colleagues on what the Respondent and their witnesses referred to as the public forum of the group chat. He was however also very unhappy about the Claimant’s continued objection to the fact that Mr Desilva had made the bitches comment.

132 The Tribunal questioned the two main Respondent’s witnesses on this issue, Mr Vaz and Mr Desilva, about their understanding of the meaning and acceptable use of the expression “*your all my bitches*”. It was not in dispute in this hearing that the use of this expression was derogatory. None of the witnesses could think of a situation in which it was used in other than a negative way. The Respondent’s Counsel used an analogy with the word “slaves” and Mr Vaz, acknowledged that it had, at its core, the implication that the people being referred to were inferior.

133 Neither Mr Vaz nor Mr Desilva could give an example of a situation in which the expression was used other than to be derogatory in some way. More importantly in the circumstances of this case, there was no question but that it was a way of taunting the other group and asserting superiority over them for Mr Desilva to refer to the Southend group as his “*bitches*”. Mr Vaz would not have welcomed the use of this expression to a female member of his family. The Tribunal also took into account that this is a word whose original meaning was very gender specific.

134 Mr Desilva asserted in his witness statement (paragraph 13) that he had apologised to Mr Barragan for the comment that he made on the chat. The Tribunal did not consider that this was credible evidence on the balance of probabilities. It seemed unlikely that Mr Desilva would have apologised to Mr Barragan, given the contemporaneous records of their attitude to Mr Desilva’s comment and the Claimant’s objection to it. There was no contemporaneous corroboration of the apology. In his witness statement at paragraph 14, Mr Desilva said for the first time that he had apologised to the Claimant also and had sent a message to this effect but that sadly this had been deleted. The Claimant denied having received such a message. He attributed the loss of the apology by way of a WhatsApp message to having subsequently changed his telephone and not being able to retrieve the information.

135 He accepted that he had not posted a message of apology on the WhatsApp group. He said that this was a private message.

136 Another inconsistency was that he said that he had sent an apology to the Claimant after speaking to Mr Vaz, even though his evidence was that Mr Vaz had told him to “leave it” and that Mr Vaz had indicated that he would deal with the issue himself. Mr Vaz did not support Mr Desilva’s account by describing that he knew of any apology to the Claimant at the time.

137 There was further no reference to this apology in the grounds of resistance.

138 Mr Desilva agreed that although he had not seen the pornographic photograph and was not clear what it was about that it was not appropriate for such a photograph to have been circulated on the work WhatsApp.

139 The other difficulty with the evidence about the apology was that it did not fit with contemporaneous records of Mr Desilva’s attitude to having made the comment; nor indeed with the attitude displayed in the Tribunal hearing about the Claimant having objected to the use of this expression. After saying to the Tribunal towards the beginning of his cross-examination that he had given her an apology, in his evidence, he showed considerable ambivalence about the suggestion that he had made an inappropriate comment which was potentially offensive to women in the workplace. He expressed the view that it was in current times inoffensive.

140 The Tribunal considered that Mr Desilva did not have the purpose of violating the Claimant’s dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for her. It was a comment made on the spur of the moment, without thought of its effect on his colleagues.

141 We next had to consider whether his use of this expression on a work group chat constituted unwanted conduct related to sex which had the effect of violating her dignity etc. In making this assessment, we considered the relevant factors set out in section 26 of the Equality Act 2010. There was no question, the Tribunal considered, that the Claimant was upset and distressed by the use of this comment. Her immediate reaction as set out above and indeed the continued reference to it in the conversation with Mr Vaz after they stopped communicating on the group chat about this, was evidence of this. Indeed, she referred to it when she resumed the chat with Mr Vaz at 07:05 on the next morning.

142 In relation to the other circumstances of the case, the Tribunal took into account that this was a male dominated workplace although there were other female members of staff but there was a background of lack of sensitivity towards women and not respecting the dignity of women. The circulation of the pornographic picture by Mr Palmer, which had attracted no censure at the time from the majority of colleagues and more importantly, from the senior male colleagues who saw it at the time, or from Mr Barragan, the Regional Manager, was evidence of this. Mr Barragan was also a member of the group when Mr Desilva’s comment was made, and as far as the rest of the group could see, he made no adverse comment about it. Other members of the group expressed amusement at the use of the term which largely went unchallenged.

143 Further, the Tribunal looked at the way in which Mr Vaz in particular dealt with the Claimant when she raised a concern about the use of the expression. The Respondent argued that Mr Vaz's concern was that the Claimant had made unwarranted accusations in relation to drug use and other misconduct by her colleagues on the public group chat. This confirmed that Mr Vaz understood that there should be boundaries between what was acceptable in public or group messaging, as opposed to private messaging between friends. The Tribunal found that Mr Vaz was indeed concerned about what he considered to be unwarranted accusations about misconduct by the Claimant's colleagues on the group chat. We found that he was also clearly critical of the Claimant for having taken offence at the use of the expression "*my bitches*" and he referred to that also subsequently. This was apparent from the content of both the ensuing exchanges on the group chat, and the subsequent exchanges on the private chat between the Claimant and Mr Vaz.

144 The Tribunal considered that this was also evidenced in his other contemporaneous communication. Mr Vaz sent an email to Mrs Zakikhany of HR, and copied to Mr Barragan, at 21:44 on 22 March 2018 under the subject heading "Wioleta Dismisal" (sic) (p229). He started the email by saying he was going to explain why he would like the Claimant to be dismissed and not to be part of his team any longer. He referred to disruptions that she had caused to other sales staff in the branch and stated that his view was that she had been underperforming. He also expressed the view that she had been disrespectful to another member of staff at the Christmas Party. He then went on to refer to having requested Mr Desilva to:

> "*provoke*" his team with "*some traditional Banter to get everyone pumped to do more sales than the east.*
>
> *Create some friendly rivalry competition for sales men is healthy*
>
> *It was a very innocent comment that was designed to give guys extra motivation to compete with east branch as you will see Wioleta blew the conversation out of context and made it nasty started to accuse branch managers of taking drugs, painting us like we are corrupt cowboys which I felt very offended about as the accusations are not true about myself and Dwayne who had worked very hard to get to where we are*."

145 The Tribunal cited this paragraph because it was written by Mr Vaz himself and also the Tribunal considered that this demonstrated that he was upset about both the Claimant's reaction to the "*bitches*" comment as well as her continued reference to drugs use after she had misinterpreted a spelling error by Mr Desilva as a reference to use of drugs as set out above.

146 The Tribunal also took into account that the Equality Act provisions about harassment are designed to address issues of Dignity At Work. In this context, this legislation which was passed in 2010, simply re-stated in what was intended to be a more accessible and coherent form, the previous provisions to the same effect. Legislation making sex harassment unlawful has been part of national law since 1986 when the Sex Discrimination Act 1975 was amended to incorporate this extended protection following the decision in the case of ***Strathclyde Regional Council v Porcelli*** [1986] IRLR 134, Court of Session.

147 The Tribunal considered that it was perfectly reasonable for Mrs Gannon, given also the evidence from the Respondent's witnesses about the derogatory context of this expression and its inherent association with the female gender, to have taken exception to it as sex harassment and to have considered that the use of it constituted harassment. The continued criticism of her for having objected to its use was consistent with this finding.

148 Ms Moss argued that everyone else on the group appeared to have taken the comment in the way it was intended. The Tribunal did not consider that this was very persuasive evidence to contradict the harassment finding, but rather supported the finding of a tolerance of conduct which undermined the dignity of women at work.

149 Ms Moss argued that the Claimant was not really particularly offended and relied on her comment later on the group chat: "*If I get dismissed past this comment I will take it very seriously all situation*" (p.312). Mrs Gannon explained in evidence that by the word "past", she meant "after". Having reviewed the context of this comment, the Tribunal considered that it was not fair to construe it as an indication that the Claimant was not really very offended and that she would only take action if she got dismissed. The earlier comments by her and the continued concern expressed by her about the comment contradicted that.

Victimisation allegations

150 The Tribunal next turned to the victimisation allegations which followed on chronologically. The primary facts of all the victimisation allegations were agreed. The question was whether they constituted acts of victimisation in law.

151 There was further a dispute about whether the earlier matters relied upon as being protected acts were indeed such. The Respondent only agreed that the complaint by the Claimant by WhatsApp message sent at 16:49 on 22 March 2018 (p308) constituted a protected act (para 5.2 of [R2]). This was chronologically the last protected act relied on and it occurred after the first two detriments complained about by the Claimant (paras 6.1 and 6.2 of [R2]) as acts of victimisation. Therefore, it can only have been a potential cause of the final set of victimisation allegations relating to the meeting invitations during the Claimant's annual leave.

Comment by Mr Vaz that the Claimant was making the conversation "toxic" and that if she was not happy she should find "something else"

152 The first detriment that the Claimant relied on as an act of victimisation under section 27 of the 2010 Act was that Mr Vaz told her that she was "*making the convo toxic*" and that if she was not happy, she should find something else (p.302). It was also not in dispute that this comment was made on WhatsApp at 23:18 on 21 March 2018 by Mr Vaz during the private WhatsApp exchange between the Claimant and Mr Vaz which took place from 23:11 to 23:21 on 21 March 2018.

153 The second comment about finding something else was made by Mr Vaz at 07:59 on 22 March 2018 (p302).

154 The protected act relied upon by the Claimant in support of her contention that the first 'convo toxic' comment was an act of victimisation was that she had complained to Mr Vaz via WhatsApp on 21 March about the "*my bitches*" comment. The Respondent denied that this amounted to a protected act. The chronology of events was thus very important.

155 The following extracts have attempted to capture the main messages between Mr Vaz ("RJAV") and the Claimant in their private chat from about 23:11 to 23:21 on 21 March 2018, which started towards the end of the group chat above and continued for a short while between the two.

> RJAV to C: *"Whats with the constant talk of drugs… What you saying on the group getting a bit to much now…*
>
> *C: "Really?"*
>
> *"Rico"*
>
> *"No"*
>
> RJAV: *"Nothing was said to offend you" "Everyone took the banter the right way" "You just making the convo toxic"*
>
> *C: "Really?" "Im the most toxic person".. "Stop it Rico" "Stop it!!!" "!!!" "!!!"*
>
> RJAV: *"You know what im not even having this convo tonight you dragged the hole thing out of contex"* [302]

156 The initial conversation on the private chat was by Mr Vaz and he started off by challenging the Claimant about her "*constant talk of drugs on the group chat*". The Claimant clearly did not accept this and responded "*really?*" and continued "*Rico no*". Mr Vaz then responded to her "*nothing was said to offend you*". The Tribunal considered that this was clearly a reference to the "*bitches"* comment not least because he continued, "*everyone took the banter the right way*". Mr Vaz accepted that in evidence. It appeared to the Tribunal clear that Mr Vaz understood that the Claimant's reference to other people using drugs had been spontaneous retaliation because of her offence at the use of the expression about "*bitches*".

157 He then continued by accusing her of making the conversation *"toxic*".

158 In the Tribunal's view, it was clear that Mr Vaz referred back on several occasions to the "banter"/Mr Desilva's comment in the group chat, which he believed the Claimant had taken offence to without justification. Although it was not expressed, it was clear in the context that the Claimant was complaining about what she considered to be an expression which was demeaning to women in the workplace. The Tribunal was satisfied that the Claimant's objection to Mr Desilva's use of the expression amounted to the doing of a protected act.

159 The Tribunal considered that Mr Vaz dismissed the Claimant's statement that

she had been offended by the comment and accused her of making the conversation toxic. He thus criticised her for expressing her offence and retaliating by referring to the use of drugs and talking of drugs use on the group chat. The Tribunal considered that she ended up being criticised for expressing her offence at this comment which clearly had derogatory overtones in relation to women as we found above. The Tribunal considered that the reason that he did this was because the Claimant had done the protected act of expressing her discontent about the use of the "*bitches*" comment. The Tribunal took into account that it was not necessary for the protected acts to have been the only reason for the detrimental treatment as long as it had been consciously or subconsciously influenced by the fact that the claimant had done the protected act and this was the cause of the less favourable treatment, then the test of victimisation has been satisfied: ***Nagarajan v London Regional Transport*** [1999] IRLR 572 HL. The Tribunal also found above that the expression was derogatory and also was clearly associated with the female sex.

If you are not happy then find something else comment by Mr Vaz

160 The alleged detriment was said to have been caused by the protected act of complaining to Mr Vaz about the "*my bitches*" comments on both 21 and 22 March.

161 The Tribunal considered the further conversation that had taken place first thing on 22 March 2018 between the Claimant and Mr Vaz.

162 The conversation the night before had ended at 23:21 on 21 March 2018 by Mr Vaz saying:

> "*you know what im not even having this convo tonight you dragged the hole thing out of contex*".

163 The following morning on 22 March 2018 at 7:05, the Claimant's first message to Mr Vaz was a complaint about the branch manager (Mr Desilva) being excused by the Regional Director (a reference to Mr Barragan) for calling people his "*bitches*" and that if this happened, then something was seriously wrong (p.302). She then expressed some disquiet about what had been happening in the work context.

164 In response, Mr Vaz having referred to his support for the Claimant in the past and that he had been extremely patient towards her, said that he would like to have an environment in which everybody was happy and working as friends because that was when everyone was most productive. He then went on:

> "*If you not happy if the company has treated you soooo bad… if everything is soooo bad for you or people dont respect you or whatevwr it is that has you so upset*
> *Then find something else … different branch … where evwryone is super serious*".

165 The Tribunal considered that once again this was a reference to the Claimant's failure to take what he considered to be the banter by Mr Desilva as a joke and that it was in this context that he believed that she should find a different branch to work at.

166 The conversation between them continued, but it is neither necessary nor proportionate to set it all out in these reasons. In effect we found that Mr Vaz continued to minimise the Claimant's concern and indeed to criticise her for objecting to what he saw as "*just a bit of banter*". He accused her of taking it out of context. Towards the end of that conversation at about 8:12 the Claimant said: "*I don't wish being called a bitch*", and: "*I don't want to or get that banter*". He criticised the Claimant for not having objected to the use of the expression privately and for having expressed her disagreement with the comment on the group chat. He said: "*How you reacted wasnt right im sorry but it wasnt*".

167 The chat between Mr Vaz and the Claimant continued until just after 9am. It has been referred to in general terms beyond the timing of the "find something else" comment, for the sake of context. In deciding whether there had been victimisation, the Tribunal considered events up to the time of the comment complained of. In the bundle the printout of this conversation ran to some nine pages. At no point when the Claimant was protesting about the comment being wrong did Mr Vaz agree with her. The conversation also covered some general points about the Claimant's performance.

168 The Respondent's position in relation to this allegation was that they agreed that the comments had been made by Mr Vaz but they disputed that they amounted to acts of victimisation because objecting to the "*my bitches*" comment was not a protected act.

169 The Tribunal disagreed. Mr Vaz telling the Claimant that she could find somewhere else to work as a response to her complaint about the "*bitches*" comment was, the Tribunal considered, clearly detrimental. Also, as set out above, we considered that a good part of his reason for doing this was because of her objection to the use of that derogatory phrase which was associated with women. In all the circumstances therefore, the Tribunal was satisfied that there had been a protected act and that Mr Vaz victimised the Claimant as a result, when he told her that she should find somewhere else to work if she did not like it.

Mr Vaz removing the Claimant from the WhatsApp group

170 The Respondent did not dispute that Mr Vaz had removed the Claimant from the group at about 9:50am on 22 March (p 312). The Claimant complained to Mr Vaz about this action on their private WhatsApp chat (p.308) at 09:55 on 22 March 2018.

171 The conversation had terminated the night before with Mr Barragan expressing the hope that the following day would be better and that his view was that everyone knew that Mr Desilva had made the comment to: "*pump up you guys, which he will say this to the South-East branch*".

172 The following morning, four members of the group checked in sometime after 8 o'clock including Mr Vaz. His first substantive contribution was to express excitement because this was the day on which he got to: "talk shit on the east chat because we gonna kill them today". He showed by his characterisation of the talk from the previous day as "shit" that he understood it was potentially offensive. By now, the Claimant had made it very clear to him that she had indeed been offended.

173 A couple of other members of the group then came on board with greetings and then at 09:47 the Claimant joined the group and her contribution was: “Well how about not talking shit first or telling people to take drugs to get sales. Can we do that?”

174 Without further ado, Mr Vaz removed her from the group. The Tribunal took into account the evidence which was not disputed that being kept on the WhatsApp group was also important in terms of receiving information about doing the job and about leads. The fact that the Claimant was taken off the group was therefore detrimental to her ability to carry on doing her job successfully.

175 The Tribunal considered that the primary motivation for Mr Vaz removing the Claimant from the WhatsApp group was because he believed that she was going to have a negative approach which was contrary to the sales ethos and also, he was upset because she referred again to the issue about taking drugs to get sales. The Tribunal considered also the fact that Mrs Gannon referred to: “not talking shit” and considered whether that was part of Mr Vaz’s motivation for removing her.

176 As the Tribunal has found above, Mr Vaz was not sympathetic to the Claimant’s concerns about the “bitches” comment having been used. He saw her as being negative. However, the Tribunal considered that what Mr Vaz saw as negativity was the Claimant’s reaction to and continued complaint about the “bitches” comment. In those circumstances, albeit that the Claimant’s reaction to the “bitches” comment included a reference to drug taking and other misconduct by her colleagues, the Tribunal considered that this was yet a further detriment to which the Claimant was subjected because she had done the protected act of complaining about the “bitches” comment. Mr Vaz’s perception of the Claimant continuing to be negative, was in the Tribunal’s view directly traceable to the comment and the disagreement between them about whether this was simply innocent banter or a comment which was actually or potentially offensive to women.

177 This complaint was therefore well founded.

Mr Vaz’s request that the Claimant attend the workplace on two occasions whilst on annual leave in March 2018

178 In fact, there were two occasions on 25 March and then a further occasion on 28 March when the Claimant was requested to attend the workplace. The Tribunal therefore treated the protected acts which were relevant to this incident as the two occasions of complaining to Mr Vaz about the WhatsApp comments on 21 and 22 March and then the further occasion on 22 March at 16:49 (p.308) when the Claimant made this complaint to Mr Vaz in the private WhatsApp exchange.

179 The Respondent agreed, and this was included in paragraph 13 of closing submissions, that the complaint on 22 March 2018 about being discriminated against amounted to a protected act.

180 It was not in dispute that the Claimant had booked holiday for the period 19 March to 29 March 2018 inclusive (p.261). The annual leave request form was completed by the Claimant on 14 March and was signed by Mr Vaz on 21 March 2018.

181 Moreover, it was not in dispute that there was no clear demarcation in terms of not communicating with the security consultants when they were on leave as opposed to when they were working. Further, as is apparent from the WhatsApp messages which were the subject of complaint above, communication took place between the Team members well into the night and very early into the morning.

182 It was also not in dispute that although the Claimant and Mr Vaz had in their WhatsApp communication around lunchtime on 23 March 2018 (p.309) referred to the fact that the Claimant was on holiday and that he was not expecting her to work, there had actually been considerable further communication between them about work thereafter and prior to the WhatsApp message of 24 March 2018 at 12:37 in which Mr Vaz indicated that he wanted to set up a meeting with the Claimant for the following Monday 26th March (p310).

183 In response, the Claimant initially indicated that this would be "no problem". The Tribunal considered that this was further evidence that there was not a clear demarcation between leave times and working times. The Claimant did not suggest that her leave was a reason for not attending at any stage during these communications and only referred to her holiday incidentally on 29 March 2018 by saying that she would use the rest of her holidays to rest further. It was not put forward by her as a reason not to attend a work-related meeting.

184 The Tribunal did not consider that, without more, a request by a manager that his employee should attend the workplace for a meeting with a more senior manager was a detriment. This was the sort of meeting that a manager is fully entitled to call. Nothing was said expressly to the Claimant at the time about the purpose of the meeting. She suspected, correctly as it turned out, that this was going to be related to the termination of her employment but Mr Vaz did not indicate to her that this was the purpose.

185 The Claimant's objection was to these requests being issued while she was on annual leave. The Tribunal considered that whilst this might have been objectionable in another type of employment, it was not exceptional for members of staff to be contacted by their manager in this employment without regard to whether they were on leave. Further, as we said above, there was no objection taken by the Claimant to attending the meeting during annual leave.

186 We also accepted Mr Vaz's evidence that he had forgotten that the Claimant was on annual leave. This was consistent with the lack of significance attached in practice to periods of leave. The Tribunal further noted in this context that there was no reference to the Claimant being on annual leave when Mr Vaz wrote the email to Mrs Zakikhany of HR referred to above on 22 March 2018 bringing her up to date.

187 The Tribunal also saw a contemporaneous email between Mr Barragan, Mr Vaz and Mrs Zakikhany sent on 27 March 2018 at 05:42 in which Mr Barragan indicated to Mrs Zakikhany that she should hold back on arranging a disciplinary meeting with the Claimant for Monday 26 March because the Claimant had got holidays until "Thursday this week".

188 The Tribunal considered that this tended to support Mr Vaz's case that he had

forgotten that the Claimant was on leave, despite the fact that he had signed the authorisation for leave on 21 March 2018.

189 The later complaint was that the Claimant had been invited to a meeting on 28 March. Mr Vaz contacted the Claimant on 28 March which was a Wednesday, asking her to attend a meeting the following day, namely 29 March. Mr Vaz and Mr Barragan's case was that they had thought that the Claimant would be back at work on Thursday 29 March. They had clearly not appreciated that 29 March would be the last day of Mrs Gannon's holiday absence. There was no evidence to suggest that a careful inspection of the relevant leave paperwork had taken place. This was consistent with them being upset with the Claimant as was evidenced by the tones of Mr Vaz's email to Mrs Zakikhany.

190 The Tribunal considered on the balance of probabilities that on the occasions complained about, either Mr Vaz had genuinely forgotten that the Claimant was on leave or else, he and Mr Barragan had not appreciated that the Claimant would still be on holiday on 29 March.

191 The Tribunal did not consider that there were any adequate grounds for concluding that there was a connection between the treatment complained of and the Claimant's complaint about the "bitches" comment and her manager's reaction to her complaint, judged against the threshold that case law has established in respect of causation. This complaint is therefore not well-founded and was dismissed.

The comment by Mr Vaz that the Claimant should change her place of work if she did not like the "banter"

192 This allegation was said to be an act of indirect discrimination under section 19 of the 2010 Act. The Tribunal first had to consider whether there was a PCP of encouraging employees to change their place of work if they did not like the alleged banter of the Respondent. The Tribunal was not told of any other situation where this was relevant and it appeared to the Tribunal that the circumstances of this particular case were somewhat unique. Also, in considering this element, it was relevant that part of the motivation, for the detriments was the reference to the use of drugs as well, not just the Claimant's objection to the 'banter'.

193 In all the circumstances, the Tribunal did not consider that this amounted to evidence of a PCP. There was further no evidence about whether the Respondent would have applied such a criterion to both male and female employees.

194 The Claimant relied on the Respondent's treatment of Mr Pettican. She alleged that he was dismissed for complaining in mid-March 2018 about Robert Palmer's posting of the pornographic picture in the previous autumn. The Tribunal has made findings above which meant that we did not accept that this was the reason for the dismissal of Mr Pettican, albeit we had some concerns about the haste with which it was carried out, in terms of its general fairness.

195 In all the circumstances therefore, we considered that the indirect discrimination complaint was not well-founded and was dismissed.

Was the Claimant's resignation a consequence of discrimination?

196 This matter was included in the list of issues under remedy and both parties addressed it in their closing submissions. Indeed, we had heard evidence which was relevant to this also.

197 The Respondent's submission was that the Claimant knew the writing was on the wall in relation to her continued employment; that she could not perform in the job; and that she was obviously disappointed not to have been promoted to branch manager. They further contended that the Claimant could not get on with her team or management in any of the roles that she had before, and that the very public accusations of drug taking and accusations of sexual misconduct against Messrs Barragan and Desilva and other matters that alienated her manager so that he had then turned against her as well.

198 The Tribunal has already set out above our findings about the various changes to employment that the Claimant made and something of the frustrations that she expressed. However, it was important to take into account that just the week before the WhatsApp exchanges, the Claimant had resigned from the position of team leader in Mr Vaz's branch and had returned to the role of security consultant. In a WhatsApp exchange between herself and Mr Vaz early on 13 March 2018 (p.182) there was an exchange which recorded the Claimant's plan for making new contacts and generating new income going forward. The Tribunal heard evidence that she was very enthused about this particular project and it was recorded that she had asked Mr Vaz if she could have two particular sales consultants working with her full-time on this endeavour. He agreed to have a chat with them to see if this could work.

199 There was further conversation on WhatsApp about the Claimant launching this new strategy on 15 and 17 March 2018 (p.184). Her worry at that point was whether she would be able to cope with the large number of appointments that she anticipated being generated.

200 Although in evidence the Respondent indicated that the Claimant was being indulged to a certain extent by Mr Vaz because this was not an avenue which she should really have been pursuing because there was an agreement at a higher level between the Respondent company and the company with whom the Claimant was trying to foster the commercial relationship. However, the Tribunal considered that this constituted undisputed contemporaneous evidence that the Claimant remained enthused about her employment with the Respondent going forward.

201 The Tribunal also took into account the records of the contemporaneous discussions between the Claimant and Mr Vaz in particular and the Claimant's repeated assertion about the offence that she had caused by the comments and Mr Vaz's continued contention that she had overreacted. It appeared to the Tribunal that there was no evidence of any other immediate cause for the termination of her employment. She may have gone through periods where she was not happy with the roles she took up but as we found, she was enthusiastic about taking the matter forward at this stage.

202 The Tribunal was therefore satisfied that the treatment that we have found constituted sex harassment and victimisation caused the Claimant's resignation.

Unlawful deductions from wages complaint

203 The Claimant complained in the details of the claim in her claim form at paragraph 35 (p.22) that the Respondent had unlawfully deducted a sum of £647.58 from her final pay. The claim with these details was presented on 14 May 2018. At the beginning of the final hearing, the Claimant indicated to the Tribunal that she wished to claim a figure which reflected the sums which were set out in two payslips which had been provided to her in June 2018 and July 2018 after she had left the Respondent's employment. Clearly these could not have been the unlawful deduction of wages complaints which Ms Gannon made at the time she presented her claim. She did not provide any evidence in support of the original contention that the sum of £647.58 had been deducted from her final pay. In those circumstances, the Tribunal dismissed that complaint as not well-founded.

204 The issue of the payslips had been discussed at the closed preliminary hearing before Employment Judge Prichard in which it appeared that the Claimant was concerned because the Respondent had provided payslips to her without having made payments which matched the information on those payslips but had, it appeared, made payments in respect of tax or supplied the payslips to the HMRC. She complained that this had led to her taxation being assessed by HMRC on the wrong basis. After setting out this issue in a couple of paragraphs in the case management summary following the hearing on 10 August 2018, Employment Judge Prichard recorded that the Claimant would send details about the payslips and her communication with the payroll department to the Respondent's solicitor. He then continued:

> "*The Respondent will hopefully unravel that. The Claimant does not understand it at all. Nor do I.*"

205 Unfortunately, no progress had been made in relation to that matter and some time was taken up by the Tribunal in this case, both at the beginning when the issues were being identified and indeed during the course of the hearing, looking at this issue with the Claimant.

206 During her evidence, the Claimant confirmed that she had been correctly paid in respect of the work that she did in March and April 2018. She resigned on one week's notice on 9 April 2018 but was not required to work her notice by the Respondent.

207 As the Tribunal has set out above, it appeared that we did not have jurisdiction in relation to the further sum that the Claimant was claiming because that was not the claim that she made in her original claim, and she had not amended her claim. However, the Tribunal regretted that the Respondent had not been able to clarify the position in respect of payments made, for the Claimant before the hearing so that time would not have been taken up with this issue.

208 There was therefore no outstanding unlawful deduction of wages that the Tribunal could ascertain.

Remedy Hearing Issues

209 The next matter which will have to be decided with relevant evidence at the remedy hearing is how much longer the Claimant was likely to have stayed, if the discrimination had not occurred. In order to assess this the parties will need to have evidence before the Tribunal about how long security consultants remained employed with the Respondent so that the Tribunal can have a view about this. The Claimant's c.v. is also likely to be relevant.

Preparation Time Order Application

210 By an email sent to the Tribunal on 17 April 2019, the Claimant put in an application for a preparation cost order. The Tribunal will deal with this matter if it remains unresolved, at the remedy hearing.

Employment Judge Hyde

7 June 2019