EMPLOYMENT TRIBUNALS

Claimant		**Respondents**
Mr D Ndegwa	**v**	(1) The Camden Society (2) Thera Trust (3) Mr Matthew Sullivan

Heard at: Bury St Edmunds (by CVP) **On:** 15 June 2021

Before: Employment Judge M Warren

Appearances
For the Claimant: Ms L Badham (Counsel)
For the Respondents: Mr C Crow (Counsel)

RESERVED JUDGMENT

1. The claimant's application to amend succeeds. The claimant's pleaded claim shall be as set out in the claimant's further and better particulars of claim filed with the Tribunal and served on the respondents on 8 June 2021.

2. The respondents' application to strike out the claimant's claims fails.

REASONS

Background

1. Mr Ndegwa was employed by the First Respondent as a support worker. There is disagreement as to the dates of his employment: the First Respondent says that his employment began on 4 April 2019 and ended on 23 June 2019. Mr Ndegwa says that his employment began on 1 February 2019 and ended on 10 October 2019. After early conciliation between 21 October and 19 November 2019, these proceedings were issued on 18 December 2019.

2. On the face of it, at 8.2 of the ET1, Mr Ndegwa brings claims of unfair dismissal, discrimination on the grounds of race, for notice pay, holiday pay and arears of pay. Mr Ndegwa provided a narrative in a document attached to his ET1.

3. The claims are resisted. The grounds of resistance refer to the claim being inadequately pleaded.

4. Mr Ndegwa was a litigant in person.

5. The First Respondent is part of the Thera Trust Group of companies and provides support for people with learning disabilities at home, in the community and by way of short breaks.

6. The complaint of unfair dismissal was rejected by the Tribunal on the grounds of insufficient length of service on 13 January 2020.

7. By letter dated 10 March 2020, Employment Judge Foxwell, (as he then was) ordered Mr Ndegwa to provide further and better particulars of his complaint of race discrimination, including what was said or done, by whom, to whom, when and where and he was required to name any actual comparators. Mr Ndegwa says he did not receive that letter.

8. On 5 May 2020, solicitors Minster Law formally came on the record as acting for Mr Ndegwa and by letter of that date, submitted an application to amend his claim to include one of detriment for having made a protected disclosure, (whistleblowing) contrary to s.47B of the Employment Rights Act 1996. They submit that this is a mere relabelling exercise.

9. As is usual with cases of claimed discrimination and whistleblowing, the matter was listed for a preliminary hearing for case management. As a result of the disruption caused by the Coronavirus crisis, the closed preliminary hearing on this matter was delayed. It came before Employment Judge Postle on 15 April 2021, a regrettable 16 months after these proceedings were issued.

10. Notwithstanding the delay, it appears from EJ Postle's hearing summary both parties were ill-prepared for the preliminary hearing. That poor preparation has led to further delay. EJ Postle observed that Mr Ndegwa had not responded to the order of EJ Foxwell, the bundle for the preliminary hearing had only been filed by the claimant at 4.50pm the day before, there was an Agenda and a List of Issues in the bundle that the parties had not agreed and at 12.50pm that day, the respondents had made an application for strike out.

11. EJ Postle listed today's open preliminary hearing expressly to: (1) determine the respondents' strike out application on the grounds that the claims have no reasonable prospects of success, (2) consider the claimant's application to amend dated 5 May 2020, and (3) consider the claimant's, "further application" to amend.

12. EJ Postle ordered that a bundle for today should be sent to the Tribunal by 8 June 2021 and that skeleton arguments were to be exchanged on the same day. He made no reference to witness statements.

13. Mr Ndegwa provided further and better particulars of his claim to the respondents and the Tribunal on 8 June 2021.

14. The representatives exchanged skeleton arguments, I believe a few days later by agreement.

15. In Ms Badham's skeleton argument, I am told that Mr Ndegwa withdraws claims for notice pay, holiday pay, wages and a complaint about the respondents' failure to provide written terms and conditions of employment. I will provide a Judgment dismissing those claims upon withdrawal.

16. Yesterday at 3.30pm, (14 June 2021) Mr Ndegwa's solicitors filed and served a witness statement by Mr Ndegwa. It is in pdf format, appears to bear a manuscript signature, contains a statement of truth and purports to be dated 6 October 2021. Assuming somebody has made a mistake and adopted the American system for numerical dating, I presume the intended date to Mr Ndegwa's signature is the 10 June 2021.

Papers before me today

17. This hearing was conducted remotely and I did not have the tribunal file before me. I had before me:

    17.1 The bundle prepared by Mr Ndegwa's solicitors.

    17.2 Skeleton argument from Ms Badham.

    17.3 Skeleton argument from Mr Crow.

    17.4 Witness statement of Mr Ndegwa copied to me during the hearing.

    17.5 A chronology provided by the respondents.

The Law

Amendments

18. When considering an application to amend, one must have regard to the guidance of Mummery J, (as he then was) in the case of Selkent Bus v Moore [1996] ICR 836. In exercising discretion, a Tribunal should take into account all the relevant circumstances and should balance the relative injustice and hardship of allowing or refusing the amendment.

19. Non-exhaustive examples of what might be relevant circumstances given by Mummery J included:

    19.1 The nature of the amendment, whether it is a minor error, a new fact, a new allegation or a new claim;

    19.2 The applicability of time limits and if the claim is out of time, whether time should be extended, and

    19.3 The timing and manner of the application and in particular, why an application had not been made sooner.

20. On the question of time limits, section 123(1) of the Equality Act 2010 requires that a claim of discrimination shall be brought before the end of the period of three months beginning with the date of the act to which the complaint relates or such further period as the Tribunal thinks just and equitable. Conduct extended over a period of time is treated as having been done at the end of that period, (section 123(3)).

21. Section s48 (3) (a) and (b) of the Employment Rights Act 1996 provides that a complaint of having been subjected to a detriment for having made a protected disclosure must be issued within three months of the detriment, (or the last detriment, if a series of similar acts) complained of unless it was not reasonably practicable to do so and it was issued within such further period as the tribunal considers reasonable.

22. On the just and equitable test, the EAT in the case of Cohan v Derby Law Centre [2004] IRLR 685 said that a Tribunal should have regard to the Limitation Act checklist as modified in the case of British Coal Corporation v Keeble [1997] IRLR 336 which includes that:

    22.1 One should have regard to the relative prejudice to each of the parties;

    22.2 One should also have regard to all of the circumstances of the case which includes:

        22.2.1 The length and reason for delay;

        22.2.2 The extent that cogency of evidence is likely to be affected;

        22.2.3 The cooperation of the Respondent in the provision of information requested, if relevant;

        22.2.4 The promptness with which the Claimant had acted once she knew of facts giving rise to the cause of action, and

        22.2.5 Steps taken by the Claimant to obtain advice once she knew of the possibility of taking action.

23. The question of whether it was reasonably practicable to bring a claim in time is a question of fact for the Tribunal. The onus is on the Claimant to show that it was not reasonably practicable, (Porter v Bandridge Ltd [1978] ICR 943 CA).

24. The expression, "reasonably practicable" has been held to mean, "reasonably feasible". See Palmer v Southend Borough Council 1984 IRLR 119 CA.

25. In Marks and Spencer v Williams-Ryan 2005 IRLR 565 the Court of Appeal held that regard should be had to what, if anything, the employee knew about the right to complain and of the time limit. Ignorance of either does not necessarily render it not, "reasonably practicable" to issue a claim in time. One should also ask what the claimant ought to have known if he or she had acted reasonably in the circumstances.

26. Selkent was revisited by Underhill LJ in the Court of Appeal in Abercrombie v Aga Rangemaster Ltd [2014] ICR 209 and the guidance of Mummery J approved. Commenting on the now often referred to distinction between label substitution on pleaded facts as compared to substantial alterations pleading new causes of action, Underhill LJ said that it was clear that Mummery J was not suggesting so formalistic an approach that the fact that an amendment pleading a new cause of action, weighed heavily against allowing an amendment. These are just factors likely to be relevant in striking the balance of injustice and hardship. He said that the focus should be not so much on, "formal classification" but more on the extent to which the amendment is likely to involve different lines of enquiry, *"the greater the difference between the factual and legal issues raised by the new claim and by the old, the less likely it is that it will be permitted".* See paragraphs 47 and 48.

27. Underhill LJ also explains in Abercrombie that just because the amendment relates to allegations that are out of time, that does not mean we should automatically disallow it. It is still in our discretion to amend. However, that the allegations are out of time are an important factor on the side of the scales against allowing the amendment, (see Underhill J as he then was, in Transport and General Workers Union v Safeway Stores UKEAT0052/07)

28. Whilst tribunals dealing with an amendment application have to consider whether the proposed amendment contains allegations that are out of time, we do not have to actually decide the time point. We can, if appropriate, grant the amendment subject to any limitation points the respondent may wish to raise at the final hearing. An example of when this might be appropriate, is when the subject of the amendment is an allegation that may be part of a continuing act of discrimination, determination of which is fact sensitive and better decided upon after hearing all the evidence at the final hearing, (see Galilee v Commissioner of Police of the Metropolis UKEAT/207/16 and Reuters Limited v Cole UKEAT/0258/17).

29. Underhill J, (as he then was) in Evershed v New Star Asset Management UKEAT/0249/09 said that employment tribunals are not in the business of punishing parties or their advisors for errors. He pointing out that in most cases where permission to amend is sought, the applying party could have got it right first time around with sufficient care.

Strike Out

30. Employment Tribunals Rules of Procedure, rule 37 provides that:

> *(1) At any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim or response on any of the following grounds—*
> *(a) that it is scandalous or vexatious or has no reasonable prospect of success;*
> *(b) that the manner in which the proceedings have been conducted by or on behalf of the claimant or the respondent (as the case may be) has been scandalous, unreasonable or vexatious;*
> *(c) for non-compliance with any of these Rules or with an order of the Tribunal;*
> *(d) that it has not been actively pursued;*
> *(e) that the Tribunal considers that it is no longer possible to have a fair hearing in respect of the claim or response (or the part to be struck out).*

31. A tribunal should be slow to strike out a claim brought by a litigant in person on the basis that it has no reasonable prospects of success, see Mbuisa v cygnet Healthcare Ltd UKEAT 0119/18. Strike out is a draconian step that should only be taken in exceptional cases. If a case is poorly pleaded, the appropriate step is to record how the case is put, ensure that the pleading is amended and make a deposit order if appropriate.

32. In terms of whether a claim has reasonable prospects of success, whistle-blowing and discrimination cases should be treated the same way; that is adopting the approach which stems from the case of Anyanwu v Southbank Student Union 2001 ICR 391. In broad, general terms, that case was authority for the proposition that discrimination cases should be heard and not struck out. The theme set by the House of Lords in that case was followed in the whistle-blowing case of Ezsias v North Glamorgan NHS Trust 2007 CA ICR 1126. At paragraph 29, Kay LJ said that only in exceptional cases would a case be struck out when the central facts are in dispute.

33. In Morgan v Royal Mencap Society [2016] IRLR 428 the then President of the EAT, Mrs Justice Simler, reminds us that the threshold is high, (paragraph 13). She acknowledges at paragraph 14 that there are cases where, if one takes the claimant's case at its highest, it cannot succeed on the legal basis on which it is advanced and in those circumstances, it will be appropriate to strike out. However, she says, where there are disputed

facts, unless there are very strong reasons for concluding that the claimants view of the facts is unsustainable, a resolution of the conflict of facts is likely to be required.

34. In Blockbuster Entertainment Ltd v James [2006] IRLR 630 CA. Sedley LJ said in that case, (at paragraph 5):

> *"This power … is a draconian power, not to be readily exercised. It comes into being if, as in the judgment of the tribunal had happened here, a party has been conducting its side of the proceedings unreasonably. The two cardinal conditions for its exercise are either that the unreasonable conduct has taken the form of deliberate and persistent disregard of required procedural steps, or that it has made a fair trial impossible. If these conditions are fulfilled, it becomes necessary to consider whether, even so, striking out is a proportionate response."*

35. In Chambers-Mills v Allied Bakeries [2008] UKEAT 0165/08 Burton J clarified that these 2 cardinal conditions are alternatives. If either is established, the Tribunal must then consider whether the draconian remedy of a strike out is a proportionate response.

36. Sedley LJ in Blockbuster said that the first object of any system of justice is to get triable cases tried, the courts are open to the difficult as well as the compliant, (so long as they do not conduct their cases unreasonably) and that it takes something very unusual indeed to justify the striking out on procedural grounds of a case that has reached the point of trial. One particular question to ask will be whether there is a less drastic means to an end for which the strike out power exists, (paragraphs 18-21).

Discretion and the overriding objective

37. In exercising discretion, in this case either whether to amend or to strike out, a Tribunal should have regard to the overriding objective. Rule 2 sets out the Overriding Objective as follows:

> *The overriding objective of these Rules is to enable Employment Tribunals to deal with cases fairly and justly. Dealing with a case fairly and justly includes, so far as practicable—*
>
> *(a) ensuring that the parties are on an equal footing;*
>
> *(b) dealing with cases in ways which are proportionate to the complexity and importance of the issues;*
>
> *(c) avoiding unnecessary formality and seeking flexibility in the proceedings;*
>
> *(d) avoiding delay, so far as compatible with proper consideration of the issues; and*

(e) saving expense.

A Tribunal shall seek to give effect to the overriding objective in interpreting, or exercising any power given to it by, these Rules. The parties and their representatives shall assist the Tribunal to further the overriding objective and in particular shall co-operate generally with each other and with the Tribunal.

In exercising discretion, one must balance the relative prejudice to the parties.

The Application to Amend

Whistleblowing

38. The first application is made in the letter from Minster Law dated 5 May 2020. The application is, "for leave for the claimant to amend his claim to include a claim for detriment on the basis of having made a protected disclosure". The letter states that the ET1 and the particulars of claim attached, prepared by Mr Ndegwa as a litigant in person, made reference to a breach of safe working practices, that he had made a complaint to a Mr Mark Pearce which he considered as blowing the whistle and he had been under the impression that he had submitted a whistleblowing claim. The application is said to have been made because his solicitors were, "concerned that he has not specifically stated this". They suggested this is a relabelling only, relying on the already pleaded facts.

39. In the further and better particulars, the protected disclosures, (now plural) are put differently:

    39.1 That he notified a Ms Lucas of a breach in safe working practices on 5 April 2019, his having been placed on shifts before he completed mandatory training and induction, and

    39.2 On 9 April he had made a disclosure to Ms Lucas and a Ms Cox about breach of safe working practices, his having been placed alone on shifts before completing his mandatory training and induction.

40. Five detriments are relied upon:

    40.1 Mr Sullivan promising to process his timesheet but not doing so;

    40.2 His not being offered any further shifts;

    40.3 His being informed that payment was going into his account on 26 July 2019 but no such payment having been made;

    40.4 Delay in dealing with his grievance, and

40.5 The First Respondent failing to provide further information following the outcome of his grievance.

41. In the claim form at 8.1 boxes were ticked indicating claims for unfair dismissal, race discrimination, notice pay, holiday pay, arrears of pay and "other payments". There is of course, no box to tick for a whistleblowing claim, which frequently confuses litigants in person, (and sometimes lawyers). There is a further box to tick with space for a narrative, "I am making another type of claim" and whilst Mr Ndegwa has ticked that box, in the narrative underneath he does not say that he is making a whistleblowing claim, but he does say at item 4, "unjust treatment based on perception and retaliation". Retaliation for what? One might ask.

42. In the document attached to the ET1 setting out Mr Ndegwa's written narrative, he referred in his second paragraph to protected acts on 5 and 9 April to Ms Alex Lucas. He refers to bullying, racial harassment, breach of contract and disregard of safe working practices. He referred in the third paragraph to the respondents acknowledging on 4 September 2019 that it had received his complaint of, inter alia, "whistleblowing".

43. He referred in his final paragraph to being subjected to unjust treatment, "because of shadow shifts request, training requests and for doing protected acts".

44. Clearly, Mr Ndegwa has made reference in his claim form to conversations with Ms Lucas on 5 and 9 April. He referred to them as protected acts. He says that he reported his line manager's disregard of safe working practices. He refers to having made a complaint of whistleblowing.

45. As for the detriments: he does refer in his claim form to having been summarily dismissed without his knowledge, to his complaint deadline being ignored, (which I take as a reference to his grievance not being dealt with timeously) and to having to chase it up. He also refers to his request for job termination details being ignored. He does not refer to not being offered any further shifts, to Mr Sullivan not processing his timesheet nor to his being promised payment that he did not receive. However, he refers to bullying and breach of contract; not offering shifts and not processing timesheets are further particulars of bullying. Not being paid as promised is further particulars of breach of contract and bullying.

46. Mr Ndegwa does not need leave to amend his claim to include a claim of whistleblowing, he has pleaded such a claim. He has pleaded that he made disclosures and that because of those disclosures, he was treated badly, (i.e. subjected to detriment).

47. The further and better particulars provided are precisely that, further and better particulars of Mr Ndegwa's pleaded claim. The whistleblowing claim as particularised in the further and better particulars, being the proposed

amended pleading, is not out of time because it was originally pleaded, (albeit in a form that was less readily comprehensible) in time.

Discrimination

48. The second application relates to the discrimination claim, as further particularised in the further and better particulars provided on 8 June 2021. The application is effectively made this morning orally by Ms Badham. She says that it relates to mere re-labelling. Mr Crow says it is more than that: the free standing claim of direct discrimination is new and there are new allegations of detriment and harassment.

49. It is tolerably clear that in his pleaded claim, Mr Ndegwe has complained of discrimination, harassment and victimisation. He has complained about his dismissal, receiving no training, of delay in dealing with his grievance, the grievance outcome and not being provided with information relating to communication about his alleged dismissal. He said that he had complained to the respondent about harassment, victimisation and discrimination.

50. He did not mention in his claim form the following new allegations of harassment:

    50.1 Mr Sullivan being aggressive to him on the telephone on 9 September 2020;

    50.2 Time sheets not being processed;

    50.3 Mr Sullivan laughing at him and telling him to google payroll, and

    50.4 Mr Sullivan telling him to, *"fuck off with your poor English accent"*.

51. These are further and better particulars in relation to the allegation of harassment.

52. The new claim of direct discrimination is re-labelling of existing allegations.

Conclusions

53. In so far as amendment is necessary to permit Mr Ndegwe to rely on his further and better particulars as his pleaded claim:

    53.1 The whistleblowing claim is not a new claim and the amendment sought is more detail on existing generally pleaded allegations. The same applies to the discrimination amendments, save that direct discrimination is a new label to existing pleaded facts and there are four new allegations in relation to the harassment complaint.

    53.2 The claims are in time, save in respect of the direct discrimination claim and the new harassment allegations.

53.3 The application relating to the whistleblowing claim was made reasonably promptly by the solicitors for Mr Ndegwe once they were instructed. Mr Ndegwe reasonably promptly sought advice once he saw the respondent's request for further particulars, bearing in mind the difficulties the coronavirus crisis created in the spring of 2020 in obtaining advice. I acknowledge the further and better particulars could and should have been provided sooner. The application in relation to the discrimination claim could certainly have been made sooner.

53.4 The passage of time is unlikely to have impacted on the cogency of evidence to any significant degree.

53.5 In terms of the overriding objective:

53.5.1 The parties were not on an equal footing at the time the claim was issues. This points toward allowing the amendment.

53.5.2 Allowing the amendment would be proportionate.

53.5.3 Allowing the amendment would avoid unnecessary formality and provide flexibility.

53.5.4 There will be no delay if the amendment is allowed.

53.5.5 Allowing the amendment will involve expense, in the respondent taking instructions, amending its grounds of resistance, possibly preparing more witness statements and in a slightly longer hearing.

53.6 Not allowing the amendment will deprive Mr Ndegwe of the opportunity to argue his case as it should have been put in the first place, had he had the benefit of solicitors acting for him. His solicitors could have included the discrimination amendments in the original application, or submitted a further application sooner. The prejudice to the respondent is that it will have to argue an expanded case. Not having to do so may be an undeserved windfall consequence, if I were to refuse the application.

54. Weighing these matters in the balance, I conclude that it is in the interests of justice and in accordance with the overriding objective, to grant the application. I find that it is just and equitable to extend time in relation to the direct discrimination claim and the new allegations of harassment.

Strike out application

55. The respondents applied to strike out the claimant's claims on the following basis:

55.1 The manner in which the proceedings have been conducted is unreasonable and/or vexatious in Mr Ndegwa's failure to provide proper particulars of his claim despite the respondents request and the Tribunal's order that he do so;

55.2 Because he has failed to comply with EJ Foxwell's order of 10 March 2020;

55.3 The claim has not been actively pursued, and

55.4 The delay has jeopardised the fairness of the hearing.

56. The respondents say that Mr Ndegwa is an experienced litigator and should know that he must particularise his claim from the outset. That seems to me to be setting an unrealistically high expectation of a litigant in person, whether experienced or not. There is many a lawyer that does not seem to understand the need to properly particularise from the outset.

57. The respondents say Mr Ndegwa is an experienced litigator because this is his fourth claim brought in the Employment Tribunals in the last 2 years, referring to three other cases of his which are a matter of public record. In his witness statement, Mr Ndegwa says that he is not an experienced litigant, that he has only ever issued one other claim, which was for a civil matter several years ago. I treat Mr Ndegwa's witness statement with circumspection as he did not have the courtesy of attending the hearing to give his evidence and answer questions in cross examination. I do give it some, (but little) weight, because he has apparently signed it and it contains a statement of truth.

58. Mr Crow in a footnote below paragraph 15 of his skeleton argument refers to three other cases the respondent name, in which they say Mr Ndegwa is the claimant, although he does not give the case numbers. I have no evidence from the respondents about those cases. I make no finding. This may be an important point that goes to Mr Ndegwa's credibility in the future. I proceed on the assumption, not the finding, that he has been engaged in other employment tribunal proceedings. Striking out a claim is a draconian step. I remind myself of that. I must have regard to the overriding objective. I must seek to balance the relative prejudice to the parties.

59. The letter of 10 March 2020 written on the instructions of Employment Judge Foxwell does not take the form of an order. It states that the Employment Judge, "requests" the further information. It is not signed by the Employment Judge. It does not give any warning of consequence if the request is not complied with.

60. A draft List of Issues was prepared before the preliminary hearing on 15 April 2021 before Employment Judge Postle. The delay between the request for further particulars in March 2020 and the preliminary hearing in

April 2021 is not the fault of the parties, but a consequence of the Coronavirus crisis.

61. It is usually with a sense of relief and gratitude that an Employment Judge finds that she or he has the benefit of a draft List of Issues before such a preliminary hearing.

62. It is very often the case that where there is a litigant in person, the kind of further information sought here is not elicited until the preliminary hearing.

63. It is unsatisfactory that the further and better particulars were not provided until just before this hearing. They could have been provided before. Particularly as Mr Ndegwa has now been represented by solicitors for a year.

64. It is unreasonable of Mr Ndegwa and his solicitors not to have provided those further and better particulars sooner. However, that unreasonableness is not of such a magnitude that would render it proportionate or in any way appropriate for me to strike out his claims. The conduct could not properly be described as vexatious; it is not designed to frustrate the proceedings.

65. It is not correct to say that Mr Ndegwa has not been actively pursuing his claim, he plainly has been. The delay in the case is caused by the Coronavirus crisis; if a preliminary hearing had been held in the middle of 2020 which would normally have been the case, these events would undoubtedly have unfolded then rather than now.

66. In terms of the overriding objective:

    66.1 The parties were not on an equal footing at the outset as Mr Ndegwa was a litigant in person and unrepresented.

    66.2 The requirement to deal with a case in a proportionate way points toward refusing the strike out application.

    66.3 The requirement to avoid unnecessary formality and be flexible points toward refusing the strike out application.

    66.4 Striking out the claim would of course bring the case to an end which would, one might say, avoid delay. That would not be compatible with a proper consideration of the issues.

    66.5 Striking out would certainly save expense.

67. In terms of balance of prejudice, striking out will of course bring to an end Mr Ndegwa's case and prevent him from seeking redress for discrimination and detriment to which he says he has been subjected. He is entitled to have a court of law hear his case and determine its outcome. The prejudice to the respondents is simply that it will have to answer a

case brought against it if the claim is not struck out. Insofar as the delay has caused prejudice, that is a consequence of the Coronavirus crisis, primarily, and not Mr Ndegwa.

68. Weighing these matters in the balance, I conclude that the applications to strike out should be refused.

69. The application to strike out has not been advanced on the basis that the case has no reasonable prospects of success, contrary to the indication in Employment Judge Postle's preliminary hearing summary. For the avoidance of doubt, taken at its highest, it cannot be said that the claimant's case has no reasonable prospects of success. It would be inappropriate to strike out the claim on those grounds.

Case Management Orders

70. Case management matters are dealt with in a separate order of today's date as they do not have to be published in the way that this Judgment has to be.

Employment Judge M Warren

Date: 30 June 2021

Sent to the parties on: .16/07/2021.....
THY
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For the Tribunal Office