



# EMPLOYMENT TRIBUNALS

**Claimant:** Dr R Heal

**Respondents:** (1) Cardiff and Vale University Local Health Board;  
(2) Health Education and Improvement Wales (HEIW)  
(3) Minister of Health and Social Services Welsh Government;  
(4) University of Cardiff

## JUDGMENT

**(1) The claim is struck out.**

## REASONS

- 1 By a letter dated 27 May 2021 the Tribunal gave the claimant an opportunity to make representations or to request a hearing, as to why this claim should not be struck out because it has no reasonable prospect of success.
- 2 The basis for issuing such a notice was because the Employment Judge took the view that the findings of the tribunal in the preliminary hearing in relation to related claims, known as PH1, indicated that the claimant's claims in these proceedings would also fail for the same reasons. The claims in the proceedings to which PH1 relates were also found to be totally without merit. The judgment in PH1 is dated 24 December 2020.
- 3 The basis for the notice to show cause why his claim should not be struck out was set out in the 27 May 2021 letter, as follows, bearing in mind the conclusions in relation to the following issues in the PH1 judgment.

*Issue 1 - whether the universities are higher education institutions within the meaning of section 91 Equality Act 2010. In this case, it appears to be beyond doubt that the University of Cardiff is such an institution as well.*

*Issue 2 - whether the claims concern training or guidance to which the governing body of the respondent universities have powers to afford access within section 56(5) Equality Act 2010. In this case, similar conclusions would appear to be likely in relation to the University of Cardiff.*

Issue 4 – does the claimant allege that he ever applied to work for, amongst others, the Secretary of State or HEE. Similarly, in this case, the claimant does not appear to allege that he has ever applied to work for the Minister of Health and Social Services in the Welsh Government or to HEIW. ...

Issues 6, 7 and 8 – whether the Claimant's claims against the following Respondents are, properly understood, claims about access to or acceptance on an education course within Part 6 EqA 2010 etc, and whether the Secretary of State has power to afford access to the training and guidance to which the claims relate. In this case, it appears that as in PH1, the claims are about access to or acceptance on an education course within Part 6 EqA 2010. Further, the third respondent Minister has no power to afford access to the training and guidance to which the claimant's claims relate.

Issue 22 - whether or not the claims are totally without merit.

Bearing in mind the conclusions in relation to those issues in PH1, and their likely application to the claims brought by the claimant in this claim, **Employment Judge A James is considering striking out the claims in relation to the CPP [the Clinical Psychology Programme] because they have no reasonable prospect of success. He is also considering whether the claims were totally without merit.**

It is understood that the claimant also alleges that he made a separate application for employment to the University of Cardiff on 18 July 2018. His claim form was not submitted until 30 October 2020, about two years after the usual three month time limit would have expired (slightly more or less, depending on the exact dates of ACAS Early Conciliation). **Employment Judge A James is considering striking out any claims arising from that application, on the basis that the claimant has no reasonable prospects of succeeding in persuading an Employment Tribunal that it would be just and equitable to extend time in the circumstances of this case.** Particularly when the claimant is well aware of time limits in discrimination claims, being a litigant in person in relation to at least 16 other sets of Employment Tribunal proceedings in England and Wales, issued between 2017 and 2019.

- 4 The current claim under consideration relates to the Trainee Clinical Psychologist Programme in South Wales (TCPP). The TCPP is (in essence) a Doctorate in Clinical Psychology offered by Cardiff University, during which trainees undertake clinical placements and hold employment contracts with the First Respondent.
- 5 The first and second respondents (the Board and HEIW) argue that - *the Fourth Respondent has the power to afford access to places on the Trainee Clinical Psychologist Programme, and the underlying course of Doctorate in Clinical Psychology. Consequently, the Fourth Respondent has the power to afford access to the work placements which form part of the Programme, and the underpinning employment contract with the First Respondent. Therefore, by virtue of section 56(5) EqA 2010, that access does not fall within Part 5 EqA 2010. Consequently, the Employment Tribunal does not have jurisdiction to hear complaints about access to the Programme, the associated placements, and the underpinning employment contract with the First Respondent.*
- 6 *Even taking the Claimant's pleaded case at its highest, he has not made any application to the Programme since 2017 (to start in 2018). The present claim was issued on 30 October 2020.*

- 7 A similar point is made by the solicitors for the fourth respondent, the University. That is, that if accepted onto the Doctorate of Clinical Psychology programme, the successful applicant becomes a registered postgraduate student of the University and an employee of the Board. The claimant argues that the postgraduate course is somehow a con or a fraud and unnecessary since, he maintains, *'there is no legal requirement for NHS employees to possess alleged 'doctorate in clinical psychology' in order to be eligible for HCPC Registration as Clinical Psychologists'*.
- 8 The only possible route to gain access to the course of study is via the Clearing House for Postgraduate Courses in Clinical Psychology.

### **Conclusions**

- 9 None of the parties requested a hearing. The application has therefore been dealt with on the basis of the written representations received.
- 10 In his response, the claimant requests that the claims be transferred to Bristol. The transfer request has already been responded to and rejected on a number of occasions. The same arguments do not require repeating again.
- 11 The claimant also argues that the judgment following PH1 is subject to appeal. Whilst that is accepted as a matter of fact, unless and until the appeal is successful, the judgment stands.
- 12 In relation to issues 1 and 2 above, the claimant continues to re-run the same arguments which were rejected at PH1. For the same reasons as set out in the judgment in PH1, those arguments are rejected. The same conclusions are bound to be arrived at in relation to University of Cardiff.
- 13 In any event, even if the conclusions were wrong, the conclusions in relation to PH3, the judgement in claim number 3332712/2018, sent to the parties on 13 July 2021 apply, in that the claimant has never in any event submitted an application via the correct route. He has instead applied directly to the Board. This is similar to the situation in PH3 where, although the application to the clinical psychology programme was to the Trust, rather than a university, the application nevertheless had to be made via The Clearing House. In the current case, the correct route was to make the application to the University, by the usual process. In both cases therefore, the claimant has failed to make an application via the correct route. In such a situation, the Claimant's claim has no reasonable prospect of success for that reason too.
- 14 As to issue 4 - whether the claimant has applied to work for the Minister or HEIW - the claimant does not rely on his ever having carried out any work for those two respondents, or made any application to work for the same. The claims against those two respondents under Part 5 Equality Act 2010 therefore have no reasonable prospect of success.
- 15 As to issue 6, 7 and 8, the claimant argues that Trainee Clinical Psychologists (TCPs) are employees of the Board, not students. The claimant further argues that the TCPs cannot be both students and employees. Again, any such arguments were rejected at PH1. There is no reason in employment law why TCPs cannot be both students of the University, at the same time as being employees of the Board. Indeed, as a result of these arrangements, those TCPs who are successful in their training, are also awarded a PhD; as well as being eligible, as a result of their combined study and training, to apply for registration with the HCPC.
- 16 As for issue 22, the same arguments apply. As a result of the findings that the claims were totally without merit, a general civil restraint order (GCRO) has been

made. The claimant's claims in the current claim under consideration are similarly totally without merit, for the same reasons.

- 17 The University accepts that the claimant made an application in April 2018 for a post of Research Assistant, which he was interviewed for on 18 July 2018. If so, his claim to the tribunal was submitted about two years late. There is no response from the claimant in relation to that argument. Even if all of the above arguments were wrong therefore, the claimant's claim in relation to any allegation arising out of that application would have no reasonable prospect of success due to the time point, and is struck out. The claimant has not put forward any reason as to why it would be just and equitable to extend time. It was incumbent on him to do so, as set out in the conclusions on the time point in the decision in the PH3 judgment (see paragraphs 113 to 120).
- 18 More generally, since the claimant has not made any application to become a TCP via the correct route, since 2017, any claims in relation to the previous applications are hopelessly out of time and for the same reasons as relied on in the PH3 judgment, have no reasonable prospect of success.

**Conclusion**

- 19 For all of the above reasons, the claimant's claims are struck out. They are also totally without merit.

**Concluding remarks**

- 20 If the claimant would like to pursue a career in clinical psychology he must submit an application via the required process, instead of trying to short-circuit that process by applying directly to the relevant NHS Trust/Board. The sooner he does so, the sooner he will have a reasonable chance of pursuing his chosen carer path.

Employment Judge A James  
27 October 2021

JUDGMENT SENT TO THE PARTIES ON  
27/10/2021.

FOR THE TRIBUNAL OFFICE