EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8000044/2022

Held in Glasgow on 1 March 2023 and 14 April 2023
(Preliminary Hearing held in chambers
by way of written representations from both parties)

Employment Judge Ian McPherson

Mr Hassan Hassan	**Claimant** **[via Written Representations]**
Department for Work and Pensions	**Respondents** **via Written Representations by:** **Ms Emily Campbell** **Solicitor**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Employment Tribunal, having considered both parties' written representations at this in chambers Preliminary Hearing, is that the claimant's opposed application for an anonymisation / privacy order by the Tribunal, in terms of **Rule 50 of the Employment Tribunal Rules of Procedure 2013,** is **refused** by the Tribunal for the reasons given in paragraphs 53 to 78 of the undernoted Reasons.

REASONS

Introduction

1. This case called again before me on the morning of Wednesday, 1 March 2023, for a one-day Expenses / Preliminary Hearing in chambers, as previously intimated to both parties by the Tribunal, on 31 January 2023, by

amended Notice of Hearing, to determine the following issues, namely : (1) the claimant's opposed application for a preparation time order under **Rule 79 of the Employment Tribunal Rules of Procedure 2013** against the respondents, and (2) the claimant's opposed **Rule 50** application for an anonymisation / privacy order by the Tribunal.

2. Both parties had, in email correspondence with the Tribunal, agreed to this being an in chambers Hearing, on the papers only, and without the need for an attended Hearing. I have dealt with it on the basis of considering their respective written representations to the Tribunal.

3. On 21 March 2023, my written Judgment and Reasons dated 20 March 2023 was issued to both parties. In the interests of brevity, I refer to that Judgment, for the background to the case, which I do not to repeat here, incorporating it by reference.

4. In summary, in that Judgment, having considered the claimant's application for a preparation time order against the respondents, and the respondents' objection to that application, I refused the claimant's application for the reasons given in the Reasons for that Judgment. That Judgment thus dealt with issue (1) above.

5. Further, as regards issue (2), having considered the claimant's application for an anonymisation / privacy order by the Tribunal, in terms of **Rule 50 of the Employment Tribunal Rules of Procedure 2013,** and the respondents' objection to that application, I continued consideration of that application to a date to be thereinafter assigned by the Tribunal, to allow the respondents' solicitor a reasonable opportunity to respond to the claimant's further written representations emailed to the Tribunal, during the Expenses / Preliminary Hearing on 1 March 2023.

Claimant's application for an anonymisation / privacy order from the Tribunal

6. In his original Preliminary Hearing Agenda, at section 9.1, the claimant stated that he wished to discuss at the first Case Management PH on 25 October

2022 whether the Judge should consider making an order to prevent or restrict public disclosure of any aspect of the case.

7. At Order (9) in my written PH Note and Orders dated 26 October 2022, and issued to both parties on 27 October 2022, the claimant was given liberty to apply, by case management application under **Rule 29**, if he considered that the Tribunal should make any privacy or anonymity order under **Rule 50** ; any such application must be intimated to the respondents' solicitor, under **Rule 92**, and, subject to any comments / objections by the respondents, the claimant's application (if any) would be determined by me, as the allocated Judge, on the papers, in chambers, and without the need for any oral Hearing.

8. Thereafter, on 16 January 2023, the claimant emailed the Tribunal with two PDFs, one of which included his application of a **Rule 50** privacy / anonymity Order, as follows:

"In the ET1, the PH Agenda, and other documents, the Claimant asserts he is employed by the Respondent as a Decision Maker, which involves carrying out sensitive Universal Credit government work on behalf of the Secretary of State. Many Universal Credit claimants are vulnerable, and a significant number display challenging and even threatening behaviour. The Claimant in this claim has sadly been repeatedly subjected to threatening behaviour as a consequence of making legally-required decisions to deny granting payments of Universal Credit.

The Claimant has also suffered from traumatic, work-related stress and related emotional and physiological symptoms due to the discriminatory actions of the Respondent. He also has a lifelong history of being subjected to racism and attacks, which date back to infancy. It is a genuine concern that having an unusual and easily identifiable name can and does pose a serious security risk; and it must be noted the Respondent considers this case does involve a high level of government security, which requires the use of a specific Ministry of Justice csjm.net email address."

Respondents' objections

9. On 26 January 2023, Ms Campbell, the respondents' solicitor, emailed the Glasgow ET, with copy to the claimant, with the respondents' response, objecting to the claimant's application under **Rule 50**, and stating as follows:

"Comment on Claimant's Grounds for Application

6. The Respondent's position is that the Claimant has not asserted why a Rule 50 order is necessary in the interests of justice, or in order to protect his Convention rights. The Claimant has not identified any convention right he may be seeking to rely upon.

7. Further, the Claimant has not specified which type of order he believes is necessary. It is not clear, for example, if he is requesting a restricted reporting order, anonymity in the judgment, private proceedings etc.

8. For these reasons, it is submitted that the Claimant's application ought to be dismissed. In the event that the Tribunal considers it necessary to consider the specific grounds for the application, the Respondent's position on each ground is outlined below.

Employment as Decision Maker

9. The Claimant states that his work as a decision maker involves carrying out sensitive Universal Credit work. He states that the Universal Credit claimants are vulnerable and display challenging and even threatening behaviour. The Claimant cites past experience of threatening behaviour as a consequence of making decisions in respect of universal credit applications.

10. It is accepted that the Claimant is employed as a decision maker of universal credit work. The Respondent is not aware of the Claimant having been subject to threatening behaviour. The Claimant has not raised this through the Respondent's Unacceptable Customer Behaviour procedure nor reported it to his line manager, per the required process. The Respondent's position is that the content of the Claimant's day to day work has no bearing on his claim. No user of the service is named in the Claimant's ET1 or Scott Schedule. The documentation relevant to the claim makes no reference to named service users. In the (unlikely) event that there is a requirement for the Tribunal to view any document which names a service user, that name could be redacted. Therefore no user of the service is affected by the ET claim. There is no basis for inferring that the ET claim will cause the Claimant to incur threats from service users, or anyone else. There is no evidence that the Claimant could be at risk of harm.

11. Given each of the above points, there is no basis upon which the conclude that a privacy order is required in the interests of justice and/ or to protect a Convention right.

<u>Claimant's Security Risk</u>

12. It is not accepted that the Claimant has an unusual or easily identifiable name. The Claimant is called upon to provide evidence of this. Even if the Claimant did have an uncommon name, it is not clear why this means that the Claimant faces a security risk as a result of his ET claim. The Claimant has not provided details of the group he considers himself to be at risk from, or the basis for his assertion that he is at an increased security risk, due to his ET claim. The Respondent's position is that there is no evidence of a risk of the Claimant facing racism, or an attack, on the basis of his ET claim.

13. The Claimant refers to the case involving "a high level of government security". It is not clear what he means by this. The claim involves standard discrimination claims; there is no particular sensitivity relating to those claims, compared with any other discrimination claim and it is unclear why the Claimant considers that a privacy order is necessary.

14. The Respondent's security protocols require the use of the 'CJSM' system on any Employment Tribunal claim, regardless of the content of said claim. The current claim is not in any way distinguished in this regard.

Stress

15. It is noted that the Claimant makes reference to his health and to suffering from stress. It is unclear what relevance this has to the application. If the Claimant's position is that a privacy order is required for a reason relating to his health, then he is called upon to produce medical evidence proving that this is the case. In the absence of any such evidence, it is submitted that the Tribunal cannot carry out the required balancing exercise and cannot determine that an order is necessary in the interests of justice and/or in order to protect a Convention right.

Balancing Exercise

16. The Claimant has not provided clear or cogent evidence to support his position that a derogation from the norm should apply here.

17. The Respondent's position is that the principle of open justice and the Convention right to freedom of expression should prevail.

18. The Claimant has not specified the type of Order under Rule 50 that he is applying for the Tribunal to make therefore we will not

comment upon Rule 50(3). We reserve the right to comment further."

Claimant's reply and evidence

10. On 10 February 2023, the claimant emailed the Tribunal, with copy to the respondents' solicitor, submitting a GP fit note dated 3 February 2023, signing him off for 8 weeks with "***work-related stress***", and correspondence about the respondents' objections to his **Rule 50** application, stating that he fully intended to respond, but his response had significantly been delayed for the reasons that he there detailed, and he requested further time to provide evidence in support of his **Rule 50** application.

11. Then, on 1 March 2023, the date originally set for this Preliminary Hearing, and unsolicited by the Tribunal, the claimant submitted his "***evidence in support of the Rule 50 application***", by emails sent to the Glasgow ET at 08:48am, and 10:03am, with detail provided over 9 separate numbered paragraphs.

12. In his covering emails, the claimant stated that:

"The Claimant understands hearings are listed for today and tomorrow – March 1 and March 2 – in which both parties are not required to attend. Two separate applications are under consideration; however, it is unclear which day/s the Rule 50 application will be considered. As a litigant-in-person, the Claimant profusely apologises for the late admission of evidence in support of the Rule 50 application; and he hopes the forthcoming evidence can be considered prior to judgement being made."

13. In his attached document, the claimant stated as follows:

"As a litigant-in-person: the Claimant provides the following further evidence in support of the Claimant's Rule 50 application.

1. ***On 10 February 2023: the Claimant respectfully requested further time to provide supporting evidence – setting out specific reasons including significant stress-related health difficulties; and also the task of the Claimant urgently trying to find a new job role with the Respondent to mitigate the loss in this claim. Unfortunately, there was no clear response to this request in the correspondence received.***

2. ***The Claimant profusely apologises both to the Tribunal and to the Respondent for submitting evidence at such a late hour. However, it does seem imperative these key legal points are made; and the Respondent are still free to apply for an order to be revoked or discharged if they choose to do so.***

3. ***The Claimant made a Rule 50 application in correspondence dated 16 January 2023:***

"4. Claimant's Rule 50 Application for privacy/anonymity order: Under Rule 29, the Claimant makes a Rule 50 application for a privacy/anonymity order under Rule 50 of the Rules of the Tribunal.

In the ET1, the PH Agenda, and other documents, the Claimant asserts he is employed by the Respondent as a Decision Maker, which involves carrying out sensitive Universal Credit government work on behalf of the Secretary of State. Many Universal Credit claimants are vulnerable, and a significant number display challenging and even threatening behaviour. The Claimant in this claim has sadly been repeatedly subjected to threatening behaviour as a consequence of making legally-required decisions to deny granting payments of Universal Credit."

4. ***The Tribunal's attention is drawn to the attached PDF file for the 7 February 2023 High Court judgement in "K v SECRETARY OF STATE FOR WORK AND PENSIONS". https://www.bailii.org/ew/cases/EWHC/Admin/2023/233.html***

The High Court judgement begins: "This judgment was handed down remotely at 10.30am on 7 February 2023 by circulation to the parties or their representatives by e-mail and by release to the National Archives."

The Claimant asserts this High Court judgement contains a total of 37 references to the DWP job title: 'Decision Maker'. However, not one of these High Court judgement references ever publishes one single DWP Decision Maker name in any way whatsoever.

The High Court judgement instead makes a total of 16 references to the term "DWP Official" within a specific context such as: "a DWP Official recorded / responded / spotted," etc.

5. To further illustrate this point, attention is drawn to beginning of the Doughty Street Chambers' February 2023 webpage article titled: "DWP overpayment waiver scheme unlawful" which related to the case of K v SECRETARY OF STATE FOR WORK AND PENSIONS: https://www.doughtystreet.co.uk/news/dwp-overpayment-waiver-scheme-unlawful"

The High Court upheld a judicial review claim by 'K', challenging the DWP's decision not to waive an overpayment of Universal Credit, and the DWP's waiver policy. This is an important decision which is likely to benefit a number of UC claimants with overpayments.

'K' is a single mother with a disabled son. She received an overpayment of UC in respect of her son, after he began an apprenticeship. K disclosed her son's circumstances to the DWP, but was repeatedly told she was entitled to continue to claim UC for him. This turned out to be an error by the DWP. 'K' sought a waiver of the overpayment, but it was refused by the DWP. She brought this claim to challenge that refusal.

The High Court allowed the claim, holding: 1. The defendant unlawfully failed to publish the Decision Maker's Guide toWaiver ('DMGW'), an important policy on waiver of overpayments."

The Claimant wishes to emphasise both DWP Decision Makers and other DWP Officials involved in DWP Decision Making are never publicly named in open justice. It's also to be strongly considered that if Doughty Street had wanted these government officials named they surely would have sought this – as is indicated by their point that the department "unlawfully failed to publish – yet this is not attributed to an individual person.

6. Attention is also drawn to the Public Law Project 9 February 2023 webpage article on the same judgement from earlier this month: "DWP unlawfully sought recovery of Client's 8K debt caused by Department error". https://publiclawproject.org.uk/latest/dwp-acted-unlawfully-in-seeking-to-recover-8k-of-clients-debt-accrued-through-own-error"

Public Law Project's client, "K", has successfully overturned three Department of Work and Pensions' (DWP) decisions refusing to waive £8,623.20 Universal Credit debt arising from repeated mistakes by the department. On 7 February the High Court ruled that the DWP's decisions to recover 'official error' overpayment debt from K's benefits were unlawful and that she should not have to repay the debt. Forcing K to pay back the overpayment would have left her without enough money to live on a month-by-month basis. The overpayment debt arose from multiple mistakes around K's Universal Credit allowance in 2019, despite her providing the DWP with the relevant information they needed to calculate her entitlement correctly."

The Claimant is a very private person, who generally does not specify his profession to people he does not know. Even with people the Claimant does know, he may say he either "works in admin" or at

the most he "works cross-government". The Claimant is fiercely protective of the DWP and its reputation, but he is not in any way prepared to be held publicly accountable for decision-making matters beyond his control.

7. The Claimant requests the Tribunal to use its discretionary power to make an order concerning 'Privacy and restrictions on disclosure'.

Firstly, the Claimant requests the anonymisation of his name, which is in itself a very rare type of Muslim name – as has been documented in other correspondence to the Tribunal and to the Respondent.

The Claimant also requests either that hearings are held in private; or that information is restricted which will identify him as a DWP Universal Credit Decision Maker. The Claimant understandably has concerns around Article 8 of the ECHR and the right to respect for private and family life.

The disclosure of the Claimant's name and sensitive government work will completely contradict the anonymity afforded to the Claimant's government colleagues in the High Court judgement highlighted below.

The Claimant firmly believes the attached High Court judgement demonstrates the Claimant's right to privacy and family life under Article 8 of ECHR; and how this will be compromised in the event of a Rule 50 order not being granted due to the subsequent risk of ongoing harm or prejudice to the Claimant. For these reasons, the Claimant is minded to consider whether or not it will be safe and practical to proceed with this Tribunal claim in the event of being denied a Rule 50 order; and by being deterred from bringing the claim, then the Claimant is effectively being denied his legal rights.

Such High Court judgements are matters of huge public interest which will impact many thousands of Universal Credit claimants. However, despite this public interest, the High Court will clearly not remove restrictions on naming DWP Decision Makers, and numerous other DWP Officials.

Disclosure of the Claimant's identity as a DWP Decision Maker will surely be an infringement upon his rights, and the following High Court judgement evidence is provided in support of this.

8. The Claimant has sought legal advice as a litigant-in-person, and he recognises obtaining an anonymity order is a high hurdle to overcome. However, it is clear that High Court judgements routinely believe the Article 8 rights of a DWP Universal Credit Decision Maker outweighs the Article 10 right and principle of open justice. The Claimant respectfully asserts the same standards of privacy and protection must be applied in this Employment Tribunal; and that DWP Decision Makers have a legal right to a high degree of privacy in respect of the sensitive government work they undertake.

It must also be considered that pending the Claimant either securing a new DWP job role or the Respondent supporting the Claimant into a job role move, the Respondent presently still expect the Claimant to continue working as a DWP Decision Maker. The work of a Universal Credit Decision Maker is frequently challenged in courts; and it is unreasonable to try to maintain integrity in such a process if security and safety and privacy are at risk of being compromised.

9. If a Decision Maker could be identified, they could not effectively do the job of being a Decision Maker. The Respondent may choose to dispute this, but it is a fact that DWP frontline staff generally do not give their full names to Claimants. For further confirmation: the Universal Credit system's security procedures

will only show the full name of Decision Maker to other DWP staff; and any Universal Credit claimant will only ever see a DWP Decision Maker's first name, if any name at all. Often, the term "An Agent" is in fact used on the Universal Credit system, instead of identifying a DWP Officer to a claimant.

Very notably: there is a deliberate form of misdirection whereby a DWP Decision Maker is listed as being located at a processing centre in completely different region. In the case of this Tribunal claim, the Claimant is listed as working at the Stockport Service Centre – despite it being a location this Tribunal Claimant has never visited. If the Respondent see no security risk for Decision Makers, why is this standard practice for all Decision Makers when Stockport is in a completely different county and region?

It is wholly unfair for this Tribunal Claimant to be permanently associated with published and searchable online internet information which can never be seen accurately or favourably by the public or the press; and for which the Claimant would be limited to comment upon unless he were to violate the Official Secrets Act, which is an integral part of government work."

14. While I did not ask for any further written representations, as made clear in the Tribunal's letter to both parties on 23 February 2023, given the fact the claimant had done so, I considered that it was in interests of justice that the respondents' solicitor be given the opportunity to reply, as soon as possible, and certainly by no later than 4pm on Wednesday, 8 March 2023.

15. I noted the claimant's reference to the recent England & Wales High Court of Justice (KBD) judgment by Mrs Justice Steyn, in **K v SSWP [2023] EWHC 233 (Admin),** and the full copy of it provided by the claimant, as also his hyperlinks to commentaries by Doughty Street chambers, and the Public Law Project.

16. As such, I did not regard that as "***evidence",*** as the claimant's email had described it, as I was engaged in an in chambers Hearing, without parties attending, but I did regard it as right and proper that, the claimant having sent it unsolicited direct to Glasgow ET, and the respondents' solicitor, then the respondents' solicitor should be afforded a right of reply.

17. Meantime, both parties were advised, by email from the Tribunal clerk sent that afternoon, that I was continuing with this in chambers Hearing, and deliberation on 2 March 2023, but I did so only in respect of the opposed application for a preparation time order against the respondents.

18. By a further letter from the Tribunal, sent on 8 March 2023, the respondents were asked for their comments by no later than 15 March 2023, Ms Campbell having emailed the Tribunal, with copy to the claimant, later on the afternoon of 1 March 2023 to note the claimant's email, and advising that she would respond at a later date once she had instructions from her client.

Further representations from the Respondents

19. On 13 March 2023, Ms Campbell emailed Glasgow ET, with copy to the claimant, enclosing the respondents' response to the claimant's email of 1 March 2023, and attaching an electronic copy of the Employment Appeal Tribunal's judgment (by Mrs Justice Simler DBE, then President of the EAT) in **Fallows v News Group Newspapers Limited [2016] UKEAT/0075/16 ; [2016] WL 02771994.**

20. After narrating, at her paragraphs 1 to 10, the background correspondence from 23 November 2022 to 1 March 2023, Ms Campbell then responded to the claimant's correspondence of 1 March 2023, as follows:

"***Response to Claimant's Correspondence of 1 March 2023***

11. As stated in the Tribunal's correspondence of 23 February 2023, the Claimant has not provided medical evidence to support any assertion that he is unfit to either take part in the Tribunal process or adhere to Tribunal deadlines.

12. The Respondent's position is that the reference made by the Claimant to the case of K v SSWP [2023] EWHC 233 (Admin) is not relevant to his Rule 50 Application. This case is from the England & Wales High Court of Justice, rather than the Employment Tribunal. The Claimant makes the point that the judgement does not name decision makers. It is disputed that this constitutes evidence that the Claimant himself is entitled to a Rule 50 order.

13. The Claimant states that he is a very private person who does not specify his profession to people he does not know. Whilst that is his decision, as stated previously, the Respondent's position is that the content of the Claimant's day to day work has no bearing on his Employment Tribunal claim, no service user is named and there is no evidence that the Claimant is at risk of harm due to his profession.

<u>Types of Order</u>

14. The types of order requested by the Claimant under Rule 50(3) will now be considered.

15. The Claimant has requested that his name is anonymised because it is a "very rare type of Muslim name". No evidence has been provided to show that this is a rare Muslim name. Furthermore, no evidence has been provided to show that even if this was the case, the Claimant is placed at any particular risk. Therefore, it is our position that there is no basis for anonymising the Claimant's name.

16. The Claimant has requested that hearings are held in private or that information is restricted which will identify him as a DWP Universal Credit Decision Maker. The Claimant further states that: "The work of a Universal Credit Decision Maker is frequently challenged in courts; and it is unreasonable to try to maintain

integrity in such a process if security and safety and privacy are at risk of being compromised." The Claimant's universal credit decision making work has no bearing upon the Employment Tribunal claim. There is no basis to suggest that naming the Claimant in these Employment Tribunal proceedings will cause him "to be held publicly accountable for decision-making matters beyond his control." The Claimant's decision-making work is not referenced in his claim.

17. The Claimant has said that to deny him the Rule 50 application would in effect deny him of his legal rights. It is disputed that this is the case. There is no evidence to show that, without a Rule 50 order, there is any risk to the Claimant in proceeding with his Employment Tribunal claim from any person. Nor is there evidence to show that the Claimant's legal rights will be detrimentally impacted.

18. Overall, it is submitted that none of the types of order sought by the Claimant are required and no further, alternative order is required either.

<u>Article 8</u>

19. The Claimant has referenced the European Convention on Human Rights("ECHR"), Article 8: the right to privacy and family life("Article 8")as abasis upon which his application is made. The Respondent's position is that Article 8 is not engaged due to the lack of evidence in respect of the Claimant's position, as outlined above.

20. In the event that the Tribunal find that Article 8 is engaged, it is denied that a Rule 50 order is required to protect said right. The Tribunal will be aware that the Claimant's Article 8 right needs to be balanced against the principle of open justice and the broader interests established by freedom of expression under

Article 10of the ECHR and the right to a fair trial under Article 6 of the ECHR.

21. As established by the Employment Appeal Tribunal in Fallows v News Group Newspapers Ltd UKEAT/0075/16WL 02771994(paragraph 47 onwards),the burden of establishing any derogation from the principle of open justice or full reporting lies on the person seeking that derogation. Furthermore, the EAT held that to make derogation necessary, it must be established by clear and cogent evidence that harm would be done to the privacy rights of the person seeking the restriction. The Respondent's position is that the Claimant has failed to establish any derogation from the principle of open justice and there is no evidence to support his assertion that harm would be done to his privacy rights.

22. There is no basis upon which to conclude that a privacy order is required in the interests of justice and / or to protect a Convention right, for the reasons outlined above. It is submitted that the Claimant's application ought to be dismissed."

Reply from the Claimant

21. When Ms Campbell's email of 13 March 2023 was referred to me, as the allocated Judge, a letter from the Tribunal was sent to both parties, on my instructions, dated 20 March 2023. In that letter, both parties were advised, as follows:

"(a) Ms Campbell's email is noted, and its content will be taken into account by the Judge when he has further private deliberation in chambers, in due course, on that opposed Rule 50 application.

(b) Before the Judge asks the listing section to appoint a further date for that purpose, for an in chambers Hearing, to consider

both parties' written representations on the opposed Rule 50 application, Judge McPherson has instructed that the claimant shall provide any further written representations, responding only to Ms Campbell's written comments, and that he shall do so by no later than 4pm on Monday, 27 March 2023, by email to Glasgow ET, with copy sent to Ms Campbell for the respondents, as per Rule 92.

(c) That date for compliance has afforded the claimant a period of 14 days for reply after despatch of Ms Campbell's email, which the Judge considers, given the subject matter of anonymity orders, to be a fair and reasonable period for reply, given the claimant's status as an unrepresented, party litigant."

22. The claimant did not reply to the Tribunal by that deadline of 27 March 2023. When the casefile was referred to me, on 3 April 2023, I instructed the Tribunal administration that a letter be sent to both parties to advise them that the opposed **Rule 50** application would be considered by me, in chambers, on Friday, 14 April 2023 and, as before, parties were not required to attend.

23. I so instructed because the claimant had provided no further written representations, as per the Tribunal's letters of 20 and 24 March 2023, the latter regarding listing for a further Case Management PH, and having regard to my availability in the first two weeks of April 2023. Unfortunately, due to an administrative delay within the Tribunal's administration, parties were not sent that letter until 12 April 2023.

Relevant Law : Rule 50

24. The relevant statutory provision is to be found within **Rule 50 of the Employment Tribunal Rules of Procedure 2013**, which provides as follows:

Privacy and restrictions on disclosure

50.—

(1) A Tribunal may at any stage of the proceedings, on its own initiative or on application, make an order with a view to preventing or restricting the public disclosure of any aspect of those proceedings so far as it considers necessary in the interests of justice or in order to protect the Convention rights of any person or in the circumstances identified in section 10A of the Employment Tribunals Act.

(2) In considering whether to make an order under this rule, the Tribunal shall give full weight to the principle of open justice and to the Convention right to freedom of expression.

(3) Such orders may include—

(a) an order that a hearing that would otherwise be in public be conducted, in whole or in part, in private;

(b) an order that the identities of specified parties, witnesses or other persons referred to in the proceedings should not be disclosed to the public, by the use of anonymisation or otherwise, whether in the course of any hearing or in its listing or in any documents entered on the Register or otherwise forming part of the public record;

(c) an order for measures preventing witnesses at a public hearing being identifiable by members of the public;

(d) a restricted reporting order within the terms of section 11 or 12 of the Employment Tribunals Act.

(4) Any party, or other person with a legitimate interest, who has not had a reasonable opportunity to make representations before an order under this rule is made may apply to the Tribunal in writing for the order to be revoked or discharged, either on the basis of written representations or, if requested, at a hearing.

(5) Where an order is made under paragraph (3)(d) above—

(a) it shall specify the person whose identity is protected; and may specify particular matters of which publication is prohibited as likely to lead to that person's identification;

(b) it shall specify the duration of the order;

(c) the Tribunal shall ensure that a notice of the fact that such an order has been made in relation to those proceedings is displayed on the notice board of the Tribunal with any list of the proceedings taking place before the Tribunal, and on the door of the room in which the proceedings affected by the order are taking place; and

(d) the Tribunal may order that it applies also to any other proceedings being heard as part of the same hearing.

(6) "Convention rights" has the meaning given to it in section 1 of the Human Rights Act 1998.

25. **Section 10A of the Employment Tribunals Act 1996** relates to confidential information, **Section 11** relates to restriction of publicity in cases involving sexual misconduct, and **Section 12** relates to restriction of publicity in disability cases. None of those provisions apply in the present case.

26. **"*Convention rights*", ** as defined in **Section 1 of the Human Rights Act 1998,** as set out in **Schedule 1** to that Act, include **ECHR Article 8 (right to respect for private and family life**), which the claimant has specifically referenced in his **Rule 50** application, and in his further written representations.

27. It provides as follows:

Article 8

Right to respect for private and family life

> ***1. Everyone has the right to respect for his private and family life, his home and his correspondence.***
>
> ***2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.***

28. The claimant's application for a **Rule 50** Order did not cite any relevant case law for consideration by the Tribunal. The claimant, as an unrepresented, party litigant, has perhaps, unsurprisingly, not made any reference to case law on this particular subject, although, in earlier correspondence, he has cited case law and statutory provisions in support of his case.

29. In these circumstances, I have given myself a self-direction on the relevant law, and, in that regard, I have noted, in particular, the guidance on **Rule 50** Orders given by the Employment Appeal Tribunal sitting in Scotland in the judgment of Lord Summers, in **A v Burke and Hare [2021] EA-2020-SCO-000067-DT (**formerly **UKEATS/0020/20/DT**).

30. In the **Burke and Hare** case, **A** sought an anonymity order. She had worked as a stripper and did not wish her name to be published in any judgement dealing with her claim for holiday pay arising from her work as a stripper. The EAT held that the principle of open justice required her name to be published. While there was evidence that strippers were stigmatised, that alone did not justify an anonymity order.

31. The EAT accepted that more serious harms such as verbal abuse and the threat of assault would have justified an order but on the evidence it had not been established that she had a reasonable apprehension of such matters. She no longer worked as a stripper and it was not possible to identify circumstances where these serious harms might occur. In any event the

chances that the publication of a judgement on the internet register of judgements would lead to such harms was remote.

32. The EAT further held further that the interest in open justice was at its strongest when evidence was given and applied less strongly at a preliminary application designed specifically to deal with the question of anonymity. Where the claimant indicated she did not intend to pursue her claim further if a general order was refused, the application was granted in relation to the judgement of the EAT on the question of anonymity alone.

33. As outlined at paragraph 34 of **Burke and Hare**, open justice is of paramount importance in the context of employment law, and derogations from it are only justified when necessary, in the interests of justice. Further, as outlined at paragraph 35 of the **Burke and Hare** judgment, derogations from the principle of open justice must be shown to be necessary. It is not sufficient that derogation is desirable.

34. There is also the appellate guidance referred to by the respondents' solicitor, as provided by Mrs Justice Simler, then EAT President (now Lady Justice Simler in the Court of Appeal of England & Wales) in **Fallows v News Group Newspapers Limited [2016] ICR 801**.

35. Her judgment confirms, at paragraph 48, that the power to make **Rule 50** Orders is wide, but there are relevant principles to be considered, including that the burden of establishing any derogation from the fundamental principle of open justice or full reporting lies with the person seeking that derogation. It must be established by clear and cogent evidence that harm will be done. As such, there is a high evidential threshold to support the making of a **Rule 50** Order.

36. Mrs Justice Simler also held that the open justice principle is grounded in the public interest, irrespective of any particular public interest the facts of the case give rise to. It is no answer therefore for a party seeking restrictions on publication in an employment case to contend that the employment tribunal proceedings are essentially private and of no public interest accordingly.

37. Further, I have also considered the judgment of His Honour Judge James Tayler in another EAT judgment, **Queensgate Investments LLP and others v Millet [2021] UKEAT/0256/20**, reported at **[2021] ICR 863**, where **Rule 50** was considered.

38. In his judgment in **Queensgate**, Judge Tayler referred to the issue of ***"open justice"***, and stated as follows, at his paragraphs 7 and 8:-

> *"7. The general principle was recently restated by Baroness Hale of Richmond PSC in **Dring (on behalf of the Asbestos Victims Support Groups Forum UK) v Cape Intermediate Holdings Ltd (Media Lawyers Association intervening) [2020] AC 629**, at 635 para. 1:*
>
> *As Lord Hewart CJ famously declared, in **R v Sussex Justices, Ex p McCarthy [1924] 1 KB 256, 259**, "it is not merely of some importance but is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done". That was in the context of an appearance of bias, but the principle is of broader application. With only a few exceptions, our courts sit in public, not only that justice be done but that justice may be seen to be done.*
>
> *8. Lord Sumption noted in **Khuja v TNL [2019] AC 161**, at para, 16:*
>
> *It has been recognised for many years that press reporting of legal proceedings is an extension of the concept of open justice, and is inseparable from it. In reporting what has been said and done at a public trial, the media serve as the eyes and ears of a wider public which would be absolutely entitled to attend but for purely practical reasons cannot do so."*

39. Judge Tayler held that Hearings to determine applications for interim relief are public hearings, and that the Employment Judge at first instance did not err in law, in refusing to make an order restricting publicity pursuant to **Rule 50** in that **Queensgate** case.

40. In reviewing the relevant law on **Rule 50**, Judge Tayler, at his paragraph 72, noted that Employment Judge Adkin, the judge at first instance, had directed himself to the relevant law in **Fallows**, as also in **Ameyaw v Pricewaterhousecoopers Services Ltd [2019] ICR 976**, where Her Honour Judge Eady QC (now Mrs Justice Eady, current President of the EAT) held, at her paragraphs 43 and 44, in relation to **Rule 50**, as follows:-

> *43. As well as allowing for a restriction in cases concerning confidential information (as provided by section 10A ETA), Rule 50 thus provides that restrictions on publicity may be imposed both in the cases expressly referenced at sections 11 and 12 ETA (sexual misconduct allegations; disability cases) but also more generally. This wider ability to restrict publicity derives from the Secretary of State's general power to make procedural regulations for ETs, under section 7 ETA, whether read by itself or construed in accordance with section 3 of the Human Rights Act 1998 (see Fallows v News Group Newspapers, per Simler P at paragraph 43). It is apparent, however, that the Secretary of State has chosen to exercise that power in a different way to that allowed in national security cases.*
>
> *44. Taken at face value, the power to restrict publicity, whether for reasons of national security or otherwise, stands in contrast to the transparency that would otherwise be required by the principle of open justice. As already stated, it is a power, however, that acknowledges the fact that other competing rights and interests may sometimes require that transparency is curtailed. The rights provided by both Articles 6 and 10 ECHR are qualified and allow that interests of national security or other Convention rights (including the right to respect for a private life under Article 8) may outweigh the requirement for public access to judicial proceedings or pronouncements. In proceedings before the ET, the balancing out of these competing interests or rights is governed by the 2013 Regulations and the ET Rules, which provide (to summarise):*

44.1 That the Lord Chancellor is required to maintain a public Register of all ET Judgments and Written Reasons (Regulation 14 2013 Regulations).

44.2 Subject to Rules 50 and 94, the ET is required to enter on to the Register a copy of every Judgment and document containing Written Reasons for a Judgment (Rule 67 ET Rules).

44.3 In national security cases, Rule 94 ET Rules permits the ET to make certain redactions from the Judgment and Written Reasons and - significantly - to determine that the Written Reasons will not be entered on to the Register in some cases.

44.4 In cases involving confidential information or where required by the interests of justice or in order to protect rights under the ECHR, Rule 50 ET Rules permits the ET to make certain redactions from the Judgment and Written Reasons (including the anonymisation of the parties) but makes no provision for the ET to do other than enter the Judgment and Written Reasons on to the Register.

41. In **Ameyaw, t**he appellant, Ms Ameyaw, applied for an earlier ET Judgment in the proceedings (sent out to the parties and entered in the public Register over a year before) to be removed from the Register as she objected to the fact that it was publicly accessible on-line; alternatively, she asked for an Anonymity Order to be made under **Rule 50** of the ET Rules. The ET refused both applications, holding that it had no power to remove a Judgment from the Register and that **Rule 50** provided no basis in the present case to overrule the principle of open justice.

42. She appealed the ET judgment, but HHJ Eady, in dismissing her appeal, held that the ET had correctly held that it had no power to exclude or remove a

Judgment from the public Register. By **Rule 67** of the ET Rules, it was required that, subject to **Rules 50 and 94**, every Judgment and document containing Written Reasons for a Judgment was entered on to the public Register. Although the ET could decide not to enter Written Reasons for a Judgment in a national security case (**Rule 94**), there was no corresponding power under **Rule 50**.

43. The real issue raised by the appeal was whether the ET had properly exercised its discretion in refusing to make an Anonymity Order under **Rule 50.** The appellant had contended that such an Order was necessary to protect her Article 8 ECHR rights. Her application related, however, to a Judgment reached after an open Preliminary Hearing at which the ET had considered an application to strike out the appellant's claims on the basis of her conduct at an earlier (closed) Preliminary Hearing. The matters to which the appellant objected had, therefore, been the subject of discussion at a public trial of the strike out application; Article 8 was not engaged - the appellant could have had no expectation of privacy in that regard.

44. Even if that was wrong, Judge Eady held that it was for the ET to carry out the requisite balancing exercise (see **Fallows and Others v News Group Newspapers Ltd [2016] ICR 801 EAT**) and, in the particular circumstances of the **Ameyaw** case, it had been entitled to take the view that the principles of open justice and the interests arising from Articles 6 (fair trial) and 10 (freedom of expression) were not outweighed by the appellant's interests under Article 8 ECHR such that there should be any restriction on publicity under **Rule 50**.

45. In reaching its decision, as an exercise of its case management discretion, the EAT held that ET in the **Ameyaw** case had made clear (i) its view that it had no power to exclude the Judgment from the public Register, and (ii) its conclusion on the question whether the principle of open justice should be curtailed in that case.

Discussion and Deliberation

46. I turn now to consider each party's competing submissions to me.

47. Although the claimant did not respond, by 27 March 2023, or at all, as at the date of the continued in chambers Hearing held on Friday, 14 April 2023, to the Tribunal's invitation to him to provide any further written representations, responding only to Ms Campbell's written comments of 13 March, I consider that, in terms of the Tribunal's overriding objective to deal with the case fairly and justly, in terms of **Rule 2 of the Employment Tribunals Rules of Procedure 2013**, he was given a reasonable opportunity to do so, and, for whatever reason, he had decided not to do so.

48. Further, I note and record that the claimant made no application for any extension of time to do so, in terms of **Rule 5**. The disputed matter of the opposed **Rule 50** application requires judicial determination, and, in terms of **Rule 2**, I have to have regard to avoiding delay, so far as compatible with proper consideration of the issues.

49. As such, I have proceeded to consider matters, on the papers only, and without the need for an attended Hearing, on the basis of parties' previously given agreement to that course of action, and having careful regard to parties' written representations as available to me, and as detailed earlier in these Reasons.

50. I have carefully considered both parties` written submissions, along with my own obligations under **Rule 2**, being the Tribunal's overriding objective to deal with the case fairly and justly.

51. Having done so, and after careful consideration of the competing arguments, taking into account the relevant law, as ascertained in the legal authorities referred to earlier in these Reasons, I am not satisfied that this is one of those cases where it is appropriate to (a) order a private Hearing in the event that this case is listed in due course for a Final Hearing, nor (b) to make any anonymity or privacy order, as sought by the claimant.

52. In these circumstances, I have refused the claimant's application. I now explain my reasoning as below.

53. Firstly, on the matter of the case being listed for a private Hearing, in the event that this case is listed in due course for a Final Hearing, the claimant's application does not satisfy me that that is an appropriate course of action. As such, I have refused his application for a private Hearing. While he had made reference to his health and to suffering from stress, his application did not make it clear why that was relevant to a **Rule 50** Order, and he has produced no medical evidence on that basis, as called for by Ms Campbell in her objections, at paragraph 15 of her email of 26 January 2023, and as referred to by her in paragraph 11 of her subsequent email of 13 March 2023.

54. The claimant did not initially ask for a private Hearing when he made his application on 16 January 2023. Ms Campbell, at paragraph 7 of her respondents' objections intimated on 26 January 2023, as reproduced earlier in these Reasons, at my paragraph 9 above, noted that the claimant had not specified which type of order he believed was necessary under **Rule 50**.

55. The claimant addressed that *lacuna* in his subsequent email of 1 March 2023, as reproduced earlier in these Reasons, at my paragraph 13 above. Specifically, in his paragraph 7, the claimant requested either that hearings are held in private; or that information is restricted which will identify him as a DWP Universal Credit Decision Maker.

56. After careful reflection, I have come to the decision that it is not appropriate to make any Order under **Rule 50(3)(a)** that a Hearing that would otherwise be in public should be conducted, in whole or in part, in private.

57. That is because I regard as well-founded the respondents' objections, as set forth by Ms Campbell in her email of 13 March 2023, as reproduced earlier in these Reasons, at my paragraph 20 above, specifically at her paragraph 16.

58. I agree with her assessment that the claimant's Decision Maker role has no bearing upon his Tribunal claim against DWP, and that there is no basis to

suggest that naming the claimant in these Tribunal proceedings will cause him to be held publicly accountable for Universal Credit decision making matters beyond his control.

59. As Ms Campbell rightly points out, the claimant's Decision Maker work for the respondents is not referenced in his Tribunal claim, other than, as I see matters, it is his job title.

60. Secondly, on the claimant's request that I make some form of anonymity or privacy orders, again the claimant's application does not satisfy me that that is an appropriate course of action.

61. In the claimant's email of 16 January 2023, as reproduced earlier in these Reasons, at my paragraph 8 above, the claimant states he has ***"an unusual and easily identifiable name",*** and that this "***can and does pose a security risk***; ***and it must be noted the Respondent considers this case does involve a high level of government security, which requires the use of a specific Ministry of Justice csjm.net email address."***

62. I regard, as well-founded, the respondents' objections to the claimant's request for a privacy / anonymity order, as set forth by Ms Campbell in her email of 26 January 2023, as reproduced earlier in these Reasons, at my paragraph 9 above, where, at her paragraph 12 she stated that it is not accepted that the claimant has an unusual or easily identifiable name.

63. In her paragraph 13, she queried what the claimant meant by his reference to "***this case does involve a high level of government security",*** stating, in reply, that this claim involves standard discrimination claims, and there is no particular sensitivity relating to the claimant's claims, compared with any other discrimination claim brought before the Employment Tribunal.

64. Her paragraph 14 explains the respondents' security protocols, requiring use of the CJSM system on any ET claim, regardless of the content of the claim, and that the claimant's case is not in any way distinguished in that regard. In my view, given that explanation, nothing turns upon that matter.

65. I agree with Ms Campbell's observation that this claim is typical of very many regularly brought before the Tribunal against a variety of employers, public, private, and third sector. It just so happens, in this case, that the DWP, as respondent, is a department of HM Government. Claimants suing employers do not routinely seek anonymisation of their name. Given the State is a large-scale public-sector employer, there are very many cases brought against Government departments in the Employment Tribunals sitting across the length and breadth of Great Britain.

66. To obtain a **Rule 50** Order, the claimant needs to show why it is necessary in the interests of justice, or in order to protect his Convention rights. In his original application, the clamant did not identify any Convention right, but he did do so in his subsequent email of 1 March 2023, in particular at his paragraph 7, where he stated that he has concerns around **Article 8 of the ECHR** and the right to respect for private and family life.

67. In Ms Campbell's objections of 13 March 2023, at her paragraphs 19 to 22, she argus that Article 8 is not engaged due to the lack of evidence in respect of the claimant's position, but, even if it were engaged, the claimant's **Article 8** rights need to be balanced against the principle of open justice and the broader interests of freedom of expression under **Article 10** and the right to a fair trial under **Article 6 of the ECHR**.

68. I agree with Ms Campbell's submission, and with her reference, in her paragraphs 21 and 22, to the EAT's judgment in **Fallows,** and her submission there that there is no basis upon which to conclude that a privacy order is required in the interests of justice and / or to protect a Convention right, for the reasons outlined by her, and that the claimant's application ought to be dismissed.

69. While, in her objections of 26 January 2023, Ms Campbell called upon the claimant to provide evidence of his assertion that he has an unusual or easily identifiable name, and he did so, in his subsequent email of 1 March 2023, as reproduced earlier in these Reasons, at my paragraph 9 above, Ms Campbell

also made the point that even if the claimant does have an uncommon name, it is not clear why this means that he faces a security risk as a result of his ET claim.

70. In his subsequent email of 1 March 2023, at his paragraph 7, the claimant explains that he requests anonymisation of his name, stating that it is in itself a very rare type of Muslim name, and that disclosure of his name will completely contradict the anonymity afforded to DWP colleagues in the High Court judgment of **K v SSWP,** as well as alleging that disclosure of his identity as a DWP Decision Maker will be an infringement upon his rights. He refers to, and founds upon, what he says is a fact that DWP frontline staff generally do not give their full names to claimants.

71. Ms Campbell, in her response on behalf of the respondents, on 13 March 2023, as reproduced earlier in these Reasons, at my paragraph 20 above, at her paragraphs 11 to 22, addresses the claimant's points, and she makes it clear, at her paragraphs 12 and 13, that the High Court judgment of **K v SSWP** is not relevant to the claimant's **Rule 50** application to this Tribunal, and that the claimant's day to day work as a Decision Maker has no bearing on his ET claim. I agree with her observations on both matters.

72. Likewise, I agree with her observation, at her paragraph 15, that no evidence has been provided to show that the claimant's name is a very rare type of Muslim name, and needs anonymisation on that ground, and, more significantly in my view, she is correct to note that no evidence has been provided by the claimant to show that, even if that is the case, he is placed at any particular risk of harm due to his work occupation.

73. On the information available to me, there is no dispute between the parties that the claimant is employed by the respondents as a Decision Maker, which involves him making decisions about individual applications for State benefits, specifically Universal Credit.

74. While the claimant's email of 16 January 2023 (reproduced earlier in these Reasons, at my paragraph 8 above) asserts that he has been "***repeatedly***

subjected to threatening behaviour as a consequence of making legally required decisions to deny granting payments of Universal Credit" that is mere assertion on his part, and he has provided no supporting evidence to support his assertion.

75. Furthermore, as the respondents have stated, in Ms Campbell's email of 26 January 2023, reproduced earlier in these Reasons, at my paragraph 9 above, and at her paragraph 10 in particular, it is accepted that the claimant is employed as a Decision Maker, and the respondents are not aware of the claimant having been subject to threatening behaviour, and they specifically say that he has not raised this through the respondents' Unacceptable Customer Behaviour procedure nor report it to his line manager, per the required process.

76. Given the respondents' reply in those terms, I can give the claimant's bald assertion little, if any, weight. Further, and as Ms Campbell states, in that same paragraph 10 of her objections, the respondents' position is that the content of the claimant's day to day work as a DWP Decision Maker has no bearing on his claim, and no user of the DWP service is named in his ET1 or Scott Schedule.

77. Ms Campbell rightly observes that in the (unlikely) event that if there is a requirement to name a service user, then that service user's name could be redacted. I agree with that observation by her, and, in appropriate cases, the Tribunal can and does make such anonymisation of service users by use of redaction, or giving Alpha ciphers. That, however, is not the situation here, in the present case, where the claimant seeks anonymisation of his own name.

78. In terms of the **ET Rules of Procedure 2013**, to avoid rejection under **Rule 10**, a ET1 claim form must include, amongst other things, certain minimum information, including each claimant's name and address: **Rule 10(1)(b).** In bringing a claim, there is a requirement to name both parties, both claimant and respondent.

79. The claimant provided his name, although in the format of "***Mr H Hassan***". He also provided, as required, his address. He has only sought anonymisation of his name. While parties receive Judgments with full names and addresses of both parties, any publicly available Judgment, posted online in the Employment Tribunals Decisions pages of Gov.UK does not give parties' addresses, only their name. That practice affords a degree of privacy. Having clarified his full name, the Tribunal's decisions have used his full name.

80. In his email of 16 January 2023, the claimant also refers to a "***lifelong history of being subjected to racism and attacks"***, and his "***genuine concern that having an unusual and easily identifiable name can and does pose a serious security risk."*** Again, without wishing to be unduly critical of the claimant, as an unrepresented party litigant, and merely as an observation on what he has provided to the Tribunal, he has made an assertion, unsupported by any supporting evidence produced to the Tribunal.

81. As the respondents have replied to that assertion, in Ms Campbell's email of 26 January 2023, reproduced earlier in these Reasons, at paragraph 9 above, and her paragraph 10, no user of the DWP service is affected by the claimant's Tribunal claim against the DWP as his employer, and I agree with Ms Campbell that there is "***no basis for inferring that the ET claim will cause the Claimant to incur threats from service users, or anyone else",*** and there is no evidence that the claimant could be at risk of harm.

82. In these circumstances, I agree with Ms Campbell's statement, at her paragraph 11, in her objections of 26 January 2023, that "***there is no basis upon which the conclude that a privacy order is required in the interests of justice and / or to protect a Convention right."***

83. So too do I agree with Ms Campbell's statement, at her paragraphs 16 and 17, in her objections of 26 January 2023, that the claimant has not provided clear or cogent evidence to support his position that a derogation from the norm should apply here, and that the principle of open justice should prevail.

84. Further, while the claimant has said that to deny him the **Rule 50** application would be to deny him his legal rights, I agree with Ms Campbell's statement, at paragraph 17 of her response of 13 March 2023, that there is no evidence to show that, without a **Rule 50** Order, there is any risk to the claimant, from any person, in proceeding with his ET claim, nor is there any evidence to show that his legal rights will be detrimentally impacted.

85. I recognise that the claimant, in paragraph 7 of his email of 1 March 2023, has stated that he is minded to consider whether or not it will be safe and practical to proceed with his claim in the event of being denied a **Rule 50** Order, and by being deterred from bringing the claim, then he says that he is effectively being denied his legal rights.

86. That said, the claimant was not deterred from bringing his claim, as he has done so, and he has sought to pursue it against the DWP, by his continuing engagement in these proceedings. **Article 6 of ECHR** gives the right to a fair trial.

87. I would hope that the claimant will be re-assumed by that, as also by the fact that the good and orderly conduct of the proceedings rests in my hands as the allocated Judge, and, as per **Rule 2,** both parties have a duty to co-operate with each other and the Tribunal to ensure the overriding objective of dealing with the case fairly and justly is achieved.

Disposal and Further Procedure

88. Having carefully considered the claimant's opposed application for a **Rule 50** Order from the Tribunal, at the continued in chambers Hearing held on Friday, 14 April 2023, I have refused it for the foregoing reasons, as set forth at paragraphs 53 to 78 of these Reasons, as above.

89. Further procedure in this case will now be determined at the further Case Management Preliminary Hearing assigned to be heard by me, in private, as an Employment Judge sitting alone, and conducted remotely by videoconferencing, using the Tribunal's Cloud Video Platform ("CVP") facility,

on Tuesday, 16 May 2023, as previously ordered by the Tribunal, on 6 April 2023.

90. This decision is without prejudice to the claimant's right, if so minded, to make a fresh application, at any time, for a specific **Rule 50** Order, if there is a material change in circumstances, and, to that end, the usual liberty to apply is reserved to the claimant.

Employment Judge: **I McPherson**
Date of Judgment: **28 April 2023**
Entered in register: **04 May 2023**
and copied to parties