



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr F Warrener-Iglesias

**Respondent:** Coretech Security Services Limited

**Heard at:** Bristol

**On:** 14 November 2023

**Before:** Employment Judge Ferguson

## Representation

Claimant: In person

Respondent: Mr I Wheaton, counsel

# RESERVED JUDGMENT

**It is the judgment of the Tribunal that:**

1. None of the beliefs advanced by the Claimant amount to philosophical beliefs and therefore the complaints of direct discrimination and harassment are dismissed.
2. The complaint of victimisation is struck out because it has no reasonable prospect of success.
3. The claim for breach of contract is struck out because it has no reasonable prospect of success.

# REASONS

## INTRODUCTION

1. By a claim form presented on 26 February 2023, following a period of early conciliation between 16 December 2022 and 27 January 2023, the Claimant

brought complaints of discrimination because of philosophical belief and breach of contract.

2. This Preliminary Hearing was listed to consider:
  - 2.1. Whether any or all of the beliefs advanced by the Claimant amount to a philosophical belief in accordance with Section 10 of Equality Act 2010 (“the EqA”);
  - 2.2. Whether any of the claims advanced by the Claimant have been raised outside the relevant time limit set out in Section 123 of EqA, or whether they form a course of conduct with later claims that have been raised in time. If the Claims have been raised outside the relevant time and are not part of a continuing course of conduct, whether the Tribunal should exercise its discretion to extend time because it considers it just and equitable to do so;
  - 2.3. Whether the Claimant’s claim of breach of contract has little or no reasonable prospects of success;
  - 2.4. Whether any or all of the claims being raised by the Claimant have either:-
    - 2.4.1. no reasonable prospects of success and if so, whether such claims should be struck out; or
    - 2.4.2. Have little reasonable prospects of success and a deposit orders should be made as a condition of the claims being allowed to proceed.
  - 2.5. Any other case management order as considered appropriate.
3. It was agreed at the start of the hearing that the “continuing act” point was not suitable for determination as a preliminary issue, but that it may be relevant to the strike-out or deposit considerations. The question of an extension of time on just and equitable grounds could arise depending on the outcome of the philosophical belief issue.
4. I heard evidence from the Claimant and he was cross-examined on all elements of the “Grainger criteria”. The part of the hearing while he was giving evidence was conducted in private in accordance with Rule 94 of the Employment Tribunals Rules of Procedure on the basis that it was expedient in the interests of national security, given that the Claimant’s evidence touched on some aspects of the security vetting process. I also had a bundle of 114 pages including all of the correspondence relating to the Claimant’s dismissal.

## **THE CLAIM AND ISSUES**

5. The Respondent is a Cyber Security Consultancy which provides data and consultancy services to the UK Government, its Agencies and Departments. It carries out sensitive work concerning national security. The Claimant was employed by the Respondent from 2 August 2021 to 3 October 2022 as a Vulnerability Researcher.
6. On 30 August 2022, the Government’s vetting team informed the Respondent

that the Claimant's Enhanced Developed Vetting application had been rejected. No reasons were given. The Respondent says this is standard procedure and there is no appeal. It spoke with the Government's Vetting team and was advised that the Claimant would not be granted a lower security clearance level and any further application from the Claimant would be rejected.

7. The Respondent says it considered whether there were alternative roles within its business that did not require any security clearance but could not identify any. On 3 October 2022, the Respondent invited the Claimant to attend a meeting where it informed him that it had no choice but to terminate his employment. It is not in dispute that the effective date of termination was 3 October 2022.
8. The Claimant says that in the discussions that followed about the Claimant signing a "dismissal agreement", the Respondent said that they would extend his corporate health insurance until 26 February 2023. The Claimant says that the Respondent breached that agreement.
9. The Claimant asserts that he holds the following philosophical beliefs:
  - 9.1. Belief in (i) individual rights, (ii) government accountability, and (iii) equitable vetting; He has a lack of respect for the security clearance vetting process and/or government authorities ("Belief 1");
  - 9.2. The right to associate with whomever he chooses ("Belief 2");
  - 9.3. Belief in principles of personal development, responsibility and positive masculinity ("Belief 3");
  - 9.4. The value and necessity of transparency and uninhibited enquiry in the workplace ("Belief 4").

Direct discrimination because of philosophical belief

10. The Claimant alleges that his dismissal, the failure to offer him other employment and the failure to offer him a right of appeal constituted direct discrimination because of Beliefs 1, 2 and/or 4. His case is based on a colleague having told him that they had spoken to a member of the Respondent's senior leadership team who was explaining the factors that led to the Claimant's dismissal and referenced his "lack of respect for the process". The Claimant says this referred to his lack of respect for the vetting process and/or authorities, which is part of his philosophical beliefs.
11. The Claimant also complains of an incident in or around February 2022. The Claimant had had a conversation with Caroline Green, the Respondent's Operations Director, in which he requested leave to travel to Ukraine and asked questions about whether any adjustments could be made to make the trip feasible. The Claimant says that the Respondent threatened to and/or reported the Claimant's behaviour to the vetting officer and that this constituted direct discrimination because of Belief 4.

Harassment related to philosophical belief

12. The Claimant says that in or around September to November 2021, during a discussion with a colleague about a mutual friend and the possibility of their interaction with the authorities over a suspected criminal offence, Ms Green interjected by saying “You two aren’t still friends with this person, right?”. This led to the Claimant replying “no” out of fear that the Respondent would cancel sponsorship of his security clearance application. The Claimant says this amounted to harassment related to Belief 2.
13. It is not in dispute that in or around August 2022 the Claimant changed his personal profile photo on the Respondent’s internal system to a picture of Andrew Tate, a well-known and highly controversial social media influencer. The Respondent says that on 22 August 2022 Ms Green received an email from a male employee complaining about the picture on the basis that Andrew Tate was an extreme misogynist. On 23 August 2022 Ms Green and Tom Court, the Claimant’s line manager, met with the Claimant to discuss the issue. The Claimant says that being required to attend this meeting where he was lectured about Andrew Tate and was forced to defend himself from being portrayed as sexist amounted to harassment related to Belief 3. The Claimant also says that he was told that using Andrew Tate as a profile photo had “crossed the line” and he needed to be more reserved and conservative in his choice of profile photo, and that this also constituted harassment related to Belief 3.

#### Victimisation

14. The Claimant sent a letter to the Respondent on 12 October 2022 which included the following: “I believe that my short-service dismissal from Coretech is discriminatory in nature and, as such...is enough to substantiate an automatic unfair dismissal claim in an employment tribunal”. The letter also said “My entire dismissal was unnecessary and has caused me mental harm and distress. It was not a business necessity, it was based on my perceived ‘respect for the process’ and a lack of adjustment to my lifestyle that are hearsay and unsubstantial unless CoreTech asked me these directly in a formal setting.” The Claimant says this amounted to a protected act under section 27 of the EqA. The Respondent accepts receiving the letter but does not accept it was a protected act.
15. The Claimant alleges that he was subjected to two detriments because he did the protected act:
- 15.1. The Respondent withdrew the dismissal agreement offer;
  - 15.2. The Respondent closed down communications with the Claimant about the dismissal offer.

#### Breach of contract

16. The Claimant claims that the Respondent’s failure to provide continued medical insurance cover until 26 February 2023 amounted to a breach of contract.

### **THE EVIDENCE**

#### Philosophical beliefs

17. The Claimant produced a 13-page witness statement, mostly dealing with his asserted philosophical beliefs by reference to the “Grainger criteria”. During cross-examination the Claimant said that he had used “ChatGPT” (“GPT”) in preparing his witness statement. He said it is a tool he uses regularly in all aspects of his life. He said that GPT knows about the Grainger criteria. He described inputting information as a “brain dump” and GPT putting it into formal language with a logical structure. He also said that it provides prompts for information to add. When I asked him about some particular parts of his evidence, whether they were his own independent words or they had been suggested by GPT, he said “both”. He said that all of the statement was his own thoughts. When asked about the sentence, “My belief in equitable vetting is genuinely held and deeply rooted in my experiences and understanding of democratic values”, he said that he would have written something along the lines of “it’s deep”, or “it’s part of me”, and GPT would have suggested that sentence.

*Belief 1*

18. The Claimant describes this belief as “individual rights, government accountability, equitable vetting”. His witness statement states: “My belief in the importance of equitable vetting ... has been shaped by various factors and has led me to question the fairness and effectiveness of the current vetting processes”. The statement then lists three criticisms of the process. First, the Claimant says he has been advised that it is advantageous to provide limited information during the vetting process. He says this is used a strategy for achieving a successful vetting outcome because there is less information for the vetting officers to scrutinise. Secondly, he says he has encountered instances of individuals presenting a “benign” image, or “keeping their heads down” to ensure their vetting process proceeds without complications. Thirdly, he expresses concerns about potential bias in the vetting process given that many vetting officers have backgrounds in law enforcement. The statement says that “these beliefs and observations have become an integral part of my professional life”. He says he believes that the process “seems to inhibit the UK from benefitting from the talent of the most creative and diverse thinkers”.

19. In cross-examination the Claimant said his belief in the importance of equitable vetting began when he started considering careers in cyber security, from the age of 14-15. The Claimant is now 24. When asked in cross-examination to explain what “equitable vetting” means, he said “it’s rooted in discrimination and accountability for discrimination”. He said he was referring to discrimination against people from marginalised or lower socio-economic backgrounds, and people who may not support “the military industrial complex”. In terms of the impact on his life, the Claimant said it is something he is thinking about a lot. He accepted he had never mentioned this belief to the Respondent prior to these proceedings. He said he talks to friends about it in person and through digital messages. There were around 5 to 10 people he talked to about this in the last year of his employment. He said he had not talked about it much in the year since his dismissal because he had been travelling with people not in the industry.

*Belief 2*

20. The Claimant describes Belief 2 in his witness statement as “the right to association and the principle that individuals should have the freedom to associate with whomever they choose, without external interference or punishment”. In his oral evidence he said that he should have clarified that this included the right to be “*perceived* to be associated with others” without interference or punishment. When I asked him what interference or punishment he had in mind, he said he was referring to the occasion in late 2021 when Ms Green challenged him about his association with the person they were discussing and he perceived this as a threat not to proceed with his security clearance application. In the Claimant’s witness statement he says “Since my early years in primary school and throughout my adulthood, I have always valued the act of connecting with individuals, regardless of whether others may hold unfavorable opinions about them”. He said his belief “is grounded in the idea that restricting associations based on the judgments of others limits the diversity of influence and thinking in one's life”.
21. In cross-examination the Claimant said that he exhibited this belief by being willing to discuss the person who was considered to be a concern, knowing that he may be perceived to be associated with them. The Claimant was asked if he believed that he should be entitled to associate openly with someone actively engaged in treason, without any impact his security clearance. He said yes, providing he was not conspiring with them. The Claimant accepted he had not mentioned this belief to the Respondent at any time before these proceedings, but said the Respondent should have been aware of it because he had openly talked about the person whom Ms Green was concerned about.

### *Belief 3*

22. The Claimant’s witness statement states: “I hold a profound philosophical belief in the principles of personal development, responsibility, and positive masculinity, all of which I see as integral to creating a meaningful and impactful life”. The Claimant said his expression of this belief included the use of Andrew Tate’s image as a profile picture. He said, “While I find resonance with his [Andrew Tate’s] messages about responsibility, self-development, and masculinity, it's crucial to clarify that I do not endorse or support his other views.” When asked which “other views” he was referring to, the Claimant clarified that he was not referring to any particular views, he simply meant that he did not necessarily endorse everything that Andrew Tate said.
23. There was no evidence before the Tribunal about Andrew Tate, but I take judicial notice of the fact that he is a well-known and highly controversial personality with a substantial following on social media. His arrest in Romania on suspicion of rape and human trafficking in December 2022 was widely covered in news media.
24. The Claimant’s witness statement includes a lengthy account of his upbringing. He said his father was a traditional man who placed emphasis on old-fashioned values, and that this had a huge influence on him. His father died when he was 5 years old, in circumstances that were very traumatic for the Claimant. After this the Claimant was repeatedly told that he was now “the man of the house” and that he needed to look after his mother and twin sister. He gave an example of having to deal with spiders because his mother and sister were terrified of

them. He also took pride in helping with physical tasks such as carrying the vacuum cleaner or bags of grocery shopping. The Claimant said:

“These beliefs lead me to self-teach myself computer science and computer hacking from the age of 10, which led me to begin running a small ecommerce website when I was 14. The small revenue the website generated allowed me to buy extra food for lunch at school, clothes, and attend activities with friends that I otherwise wouldn't have been able to attend, like going to the cinema, because my family are poor. I would never have pursued this had I not had an unwavering belief in personal development, responsibility and positive masculinity, I felt a sense of achievement, and that I was becoming responsible in providing for myself (no matter how small).

25. The Claimant outlined his professional achievements, which were unusual for his age, and continued:

“To this day, I regularly engage with people in online communities centred around the principles this belief system encompasses, this makes it a big part of my life.

Not only are all my life achievements attributable to this belief system, but outside of family, my entire circle of influence can be attributed to this belief system. If all of my achievements, and all of my influence is rooted in this belief system, then I feel it's not a small part of me, but is in fact almost the whole of me. It's what my identity is rooted in, I've never known what it's like to wake up and not have most of my thinking grounded in these principles. That's not me claiming to be a perfect person, or to have acted at a robotic level of consistency my whole life. Rather I'm asserting that this belief is all I know, and is a deep part of me.”

26. In cross-examination the Claimant said he became aware of Andrew Tate in around June 2022 and believed that the majority of his messages aligned with the beliefs of positive masculinity, personal development and responsibility. He said the use of Andrew Tate's picture was an active expression of those beliefs.

27. I asked the Claimant whether there was any particular material he had read that had influenced these beliefs, and whether he shared his beliefs in writing or through other types media. He said that his beliefs, as defined in Belief 3, were aligned with other principles such as stoicism, and he had read some material on that subject via social media and had listened to podcasts. He said that he was also in a number of Facebook groups, including an “Andrew Tate” Facebook group, where people talk to each other in the comments. These were mostly young men who were struggling in their lives. He also said he had bonded with people over these beliefs while travelling. He said he was now “algorithmically predisposed” to this content and he was exposed to it almost daily.

#### *Belief 4*

28. The Claimant describes this belief as “The value and necessity of transparency and uninhibited enquiry in the workplace”. He said this stems from the principle

that it's "safer to ask" when uncertainty arises, which he was taught from a young age. He said he believes that "imposing negative consequences for inquiry" in national security work environments could deter crucial future inquiries.

29. When I asked the Claimant what negative consequences he had in mind, he said he was referring to Ms Green passing on the information about his request to travel to Ukraine to the vetting officer.

Claimant's evidence about the application of the Grainger criteria

30. Returning to the issue of the Claimant's use of ChatGPT to produce his witness statement, it is worth noting that for each asserted belief the statement contains a section entitled "Alignment with Grainger Principles". There are then subsections addressing four of the Grainger criteria. The Claimant explained that this structure was created by ChatGPT. For some reason, presumably an imperfection in the artificial intelligence, the second criterion ("Is not merely an opinion or viewpoint based on the present state of information available") has not been included.

31. There are striking similarities in the content and the manner of expression under each of these headings. The following are examples under the heading "Genuinely Held" (emphasis added):

Belief 1: "My belief in equitable vetting is genuinely held and **deeply rooted** in my experiences and understanding of democratic values. It's not a belief I've adopted casually; rather, it's a core part of who I am, **shaped by my experiences and principles.**"

Belief 2: "... my belief in the right to association is **not merely an intellectual concept** but a **deeply ingrained** conviction. It has been **shaped by my life experiences** and consistently guides my actions and choices.... I **don't adopt this belief casually**; it is an **integral aspect of my character**. Its authenticity is evident in the way I approach relationships and interactions in my personal and professional life."

Belief 3: "I want to emphasise that my belief in personal development, responsibility, and positive masculinity is **not just an abstract notion** but a **deeply held** conviction. It's rooted in my personal experiences and has been a guiding force throughout my life. From my early years, influenced by my father's coaching and traditional values, to the responsibilities I took on as "the man of the house" after his passing, this belief has been a fundamental part of me. It's **not something I casually adopt or discard**; rather, it's an **integral aspect of who I am**. This genuineness is evident in the way it has consistently influenced my choices, actions, and relationships over the years."

Belief 4: "My belief in the value of transparency and uninhibited inquiry is genuinely held and **deeply ingrained in my character**. It



reflects not just a preference but a fundamental aspect of who I am, ***shaped by my upbringing and experiences.***"

32. There are equivalent similarities in the sections entitled "Concerns a Substantial Aspect of Human Life" and "Has a Certain Level of Coherence and Importance". As to the latter, for each asserted belief it is said that the belief demonstrates "a high level of coherence and importance" and that it provides/reflects/forms "a logical and consistent framework that guides my thoughts and actions."

#### Circumstances of dismissal

33. It is not in dispute that the Claimant attended a meeting on 3 October 2022 at which he was dismissed. He was handed a dismissal letter which stated that he would be paid in lieu of one month's notice. The letter also said that as a gesture of goodwill the Respondent would pay the Claimant three months' salary and it included a "non-derogatory statements" clause. The letter included a space for the Claimant to sign to "accept terms of dismissal".
34. On 5 October 2022 the Respondent emailed a copy of the dismissal letter to the Claimant asking him to sign and return it by 12pm on 7 October. The covering email clarified that the offer was one month's notice plus two months "for good will". It also said "As an additional gesture of good will, we will also let your private medical cover lapse naturally on 26 February 2023". The deadline for signing was later extended to 12 October, but by that date the Claimant had still not signed the letter so the Respondent emailed the Claimant confirming that it would now only be paying him one month's notice pay. Shortly after receiving this email the Claimant sent the letter of 12 October (the letter he relies on as a protected act) complaining about his dismissal and the Respondent's treatment of him. The Respondent responded acknowledging receipt of the letter. Regarding the medical insurance, it said "Your AXA private medical lapsed on your dismissal date, 3<sup>rd</sup> October 2022. We are now closing all correspondence on this matter."
35. Following further correspondence, including an apology from the Claimant for his letter of 12 October, on 17 October the Respondent emailed the Claimant to say that the previous offer was re-opened, but that the medical insurance provider had confirmed that the Claimant's cover lapsed on termination. The Claimant signed the agreement on 18 October 2022. Subsequently the Claimant complained about the Respondent having not honoured its earlier "commitment" to extend his medical insurance until 26 February 2023. The Respondent responded that the provider could not continue cover for an individual no longer employed, but it was willing to pay the value of the insurance for the period up to 26 February 2023. £135.60 was paid to the Claimant in respect of this.

## **THE LAW**

### Philosophical belief

36. Section 10 of the EqA defines the protected characteristic of religion or belief as follows:

- (1) Religion means any religion and a reference to religion includes a reference to a lack of religion.
  - (2) Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.
- ...

37. Article 9 of the European Convention on Human Rights provides:

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

38. The Tribunal is required, when interpreting section 10 of the Equality Act 2010, to do so compatibly with the European Convention on Human Rights so far as possible.

39. In Grainger plc and ors v Nicholson [2010] ICR 360, the EAT found that the claimant's asserted belief, namely that mankind was heading towards catastrophic climate change and everyone was under a moral duty to lead their lives in a manner which mitigated or avoided that catastrophe for the benefit of future generations, was capable of being a "philosophical belief". It issued guidance to Tribunals on determining questions of philosophical belief and identified five criteria that must be met in order for a belief to fall within the definition of philosophical belief, now contained in section 10(2) of the EqA. Those criteria are that the belief:

39.1. Is genuinely held;

39.2. Is not merely an opinion or viewpoint based on the present state of information available;

39.3. Concerns a weighty and substantial aspect of human life and behaviour;

39.4. Attains a certain level of cogency, seriousness, cohesion and importance; and

39.5. Is worthy of respect in a democratic society, is not incompatible with human dignity and is not in conflict with the fundamental rights of others.

40. Burton J underlined that a belief is not denied the protection of the Regulations merely because it is not shared by others, or does not govern the entirety of the believer's life, or does not constitute or allude to a fully-fledged system of thought, or is based on a political philosophy or on science.

41. In Gray v Mulberry Co (Design) Ltd [2020] ICR 715, the Court of Appeal held that, before deciding whether a belief is protected by the EqA, it is essential that the Tribunal defines exactly what the belief is. In Forstater v CGD Europe and others [2022] ICR 1, however, the EAT noted that in many cases it is not

possible to encapsulate a belief in a few words, and that consideration of the core elements of a belief is sufficient.

42. As to “genuinely held”, In R (Williamson and ors) v Secretary of State for Education and Employment 2005 2 AC 246, HL, which concerned religious belief under Article 9, Lord Nicholls indicated that, where genuineness is in issue, the court or tribunal must inquire into the genuineness and decide it as a question of fact, but it is a limited inquiry. The concern is to ensure that an assertion of belief is made in good faith, but it is not for the court or tribunal to embark on an inquiry into the asserted belief and judge its “validity” by some objective standard.
43. Regarding the second test, that the belief must be more than just an opinion or a viewpoint, in McClintock v Department of Constitutional Affairs [2008] IRLR 29, the EAT held that a Justice of the Peace who objected to hearing cases involving adoptions by same sex couples did not have a protected belief because his belief was not based upon a religious or philosophical viewpoint. It was not sufficient for the claimant to have “an opinion based on some real or perceived logic or based on information or lack of information available”.
44. As to “weighty and substantial aspect of human life and behaviour”, in Williamson, Lord Nicholls held that the belief must relate to matters that are “more than merely trivial”, must “possess an adequate degree of seriousness and importance” and must be “a belief on a fundamental problem”. In Harron v Chief Constable of Dorset Police [2016] IRLR 481 the EAT held that a tribunal was entitled to consider as a relevant factor in this context the fact that the asserted belief operated merely in the workplace. It was noted that Lord Nicholls’s requirement that the belief be on a fundamental problem “might be thought to exclude beliefs that had so narrow a focus as to be parochial rather than fundamental” (para 37). The subject matter of the belief must therefore be of general importance.
45. The fourth test is that the belief has cogency, seriousness, coherence and importance. In Williamson Lord Nicholls held that “coherent” means “intelligible and capable of being understood”, which is not a high threshold.
46. As for the final criterion, that the belief is worthy of respect in a democratic society, is not incompatible with human dignity and does not conflict with the fundamental rights of others, in Forstater the EAT held that the types of belief that are excluded by the fifth principle are limited to the “most extreme” beliefs similar to Nazism or totalitarianism, or which incite hatred or violence, and that beliefs which are merely offensive or shocking can still qualify for protection. The EAT in Forstater also made it clear that tribunals should not stray into the territory of adjudicating on the merits and validity of the belief itself. They must remain neutral and abide by the cardinal principle that everyone is entitled to believe whatever they wish, subject only to a few modest, minimum requirements.

### Victimisation

47. Section 27 of the EqA provides, so far as relevant:

#### **Victimisation**

(1) A person (A) victimises another person (B) if A subjects B to a detriment because—

- (a) B does a protected act, or
- (b) A believes that B has done, or may do, a protected act.

(2) Each of the following is a protected act—

- ...
- (d) making an allegation (whether or not express) that A or another person has contravened this Act.

...

### Breach of contract

48. Article 4 of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994 provides that a claim for damages for breach of contract may be brought before an Employment Tribunal if (among other things) “the claim arises or is outstanding on the termination of the employee’s employment”.

### Strike-out/ deposit

49. Rules 37 and 39 of the Employment Tribunals Rules of Procedure state, so far as relevant:

#### **Striking out**

##### **37**

(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;

...

(2) A claim or response may not be struck out unless the party in question has been given a reasonable opportunity to make representations, either in writing or, if requested by the party, at a hearing.

...

#### **Deposit orders**

##### **39**

(1) Where at a preliminary hearing (under rule 53) the Tribunal considers that any specific allegation or argument in a claim or response has little reasonable prospect of success, it may make an order requiring a party (“the paying party”) to pay a deposit not exceeding £1,000 as a condition of continuing to advance that allegation or argument.

...

## **CONCLUSIONS**

Philosophical belief

50. Before embarking on an analysis of the Claimant's asserted beliefs, I should record that the Claimant presented as an intelligent, articulate, thoughtful and honest person. He presented his case without any apparent help or support from anyone, and he did so with clarity and due respect for the Tribunal's rules and procedures.
51. I should also address the issue about the Claimant's use of ChatGPT. The Respondent argued that the Claimant's use of the tool to produce his witness statement significantly undermined his evidence that he genuinely held these beliefs. The Respondent did not refer me to any authority on this point, and I am not aware of any guidance from the higher courts. The Claimant argued that ChatGPT is simply a tool that helps to level the playing field for those who do not have access to a solicitor. He said that ChatGPT "knows what democratic principles are and can demonstrate how they apply", which is no more than a solicitor would do for him.
52. My view is that the relevance of the Claimant's use of AI depends on what exactly it has been used for, and what it has produced. The parts of the Claimant's statement that are most obviously GPT-generated are mainly platitudes or bare assertions quoting aspects of the Grainger criteria, as explained above. That type of evidence is not particularly helpful or persuasive in any event, but I accept that the fact it is not even the Claimant's own words means that it should be given still less weight.
53. As for the evidence in the statement about the Claimant's life, influences and activities, this would appear to be the Claimant's own material and thoughts, albeit put into more formal language, and to some extent tailored to the Grainger criteria. He may also have been prompted to include some material he would not otherwise have done because ChatGPT knows what boxes need to be ticked to satisfy the Grainger criteria. In my view the Claimant should not be penalised for having used the tool for that purpose. In terms of prompting for evidence about each of the Grainger criteria, that is very similar to what a solicitor would do when taking a client's instructions. Further, AI is now embedded in almost every aspect of the software we all use in our daily lives. Even as I write this judgment, Microsoft Word suggests words to complete my sentences. The Claimant said that he uses ChatGPT regularly in every aspect of his life. It is unrealistic to expect that parties, witnesses and representatives will not use AI tools to some extent in the preparation of witness statements, and I can readily understand why a litigant in person might feel that their evidence would be more persuasive if written in more formal language. As it happens, the Claimant's evidence probably would have been more powerful if it was written in his own words, but it would be wrong for me to give these parts of his statement less weight simply because he has used AI. I therefore approach his evidence on the basis that the substantive content, excluding the "platitudes" referred to above, originates from him, but bearing in mind that the specific language has been influenced by ChatGPT.
54. The other preliminary point to note is that the Claimant is unable to bring a claim for unfair dismissal because he did not have two years' service with the Respondent. He is therefore unable to challenge what he perceives to be flawed and unfair decision unless he can establish that it was discriminatory

under the Equality Act 2010. That is relevant background when considering the Claimant's asserted beliefs, especially in circumstances where he has not mentioned those beliefs to the Respondent before commencing these proceedings.

55. The Claimant's case is that Beliefs 1, 2 and 4 are all connected his dismissal because he was dismissed following the failed vetting process, and because of the reported comment about his lack of respect for the process.

#### *Belief 1*

56. Although Belief 1 is defined by the Claimant as "individual rights, government accountability, equitable vetting", the Claimant's evidence focuses solely on the vetting process. Beliefs in "individual rights" and "government accountability" are too general and vague to be treated as core elements of the Claimant's asserted belief. I understand the Claimant's evidence to be that these are the principles underpinning his belief in "equitable vetting".

57. There are difficulties, however, in defining what the Claimant's asserted belief in equitable vetting means. "Equity", like fairness, is a concept that is so general it cannot amount to a philosophical belief. It would fail the "cogency" aspect of the Grainger criteria. When linked to the vetting process, what the Claimant's evidence really amounts to is a series of criticisms of the process based on rumour and supposition. He believes that vetting officers *may* be biased, and that it is possible to play the system by presenting oneself as "benign" and disclosing as little as possible to the vetting officer. I am prepared to accept that these beliefs about the inadequacies of the vetting process are genuinely held. Although the Claimant's witness statement says that these beliefs have significantly influenced his day to day activities, he has not given any examples other than discussing the issue with others.

58. Insofar as this can be defined as a "belief" at all, I find that it is not a philosophical belief within the meaning of section 10 EqA. It fails the second of the Grainger criteria because it is merely an opinion or viewpoint based on the information available, which as it happens is very limited in this case. It also fails the third criterion, that the belief must concern a weighty and substantial aspect of human life and behaviour. Although the vetting process is of course an important aspect of national security, the Claimant's criticisms of it are too specific to his own working environment to satisfy this aspect of the test. It also fails on the fourth criterion relating to cogency, seriousness and importance, because it derives, on the Claimant's own evidence, from "anecdotal experiences" and stories from colleagues. As for the potential bias on the part of vetting officers the Claimant simply says that this has "given him pause for thought". Taking his criticisms of the process as a whole, they do not derive from any philosophical thought other than the vague concept of fairness, and they are not cogent or important enough to satisfy the fourth criterion.

#### *Belief 2*

59. The Claimant's evidence as to the definition of this belief was somewhat confused. It is described in his witness statement as "the right to association and the principle that individuals should have the freedom to associate with whomever they choose, without external interference or punishment", but the

Claimant then sought to clarify in his oral evidence that this included the right to be “*perceived* to be associated with others”. He perhaps made that correction because he wants to challenge the Respondent’s response to him discussing a friend who was suspected of criminal activity, and he would prefer the focus to be on the Respondent’s assumptions and perceptions, rather than the Claimant’s actual association with the individual. This illustrates how the Claimant has sought to tailor his evidence about his beliefs to the specific circumstances that he believes led to his dismissal. Further, the purported correction is difficult to understand. The perception of others is something that cannot be controlled, so there can be no *right* to be perceived in any particular way.

60. Even leaving aside that confusion, again it is not entirely clear what the Claimant’s asserted belief actually means. There is little substance to it beyond the specific circumstances of the discussion that led to Ms Green expressing concern. When pushed in cross-examination the Claimant presented an absolutist version of the belief; that he should be entitled to associate even with individuals convicted of treason or terrorism without it affecting his security clearance.
61. To the extent there is an identifiable “belief”, it is perhaps more accurately expressed as a belief that access to employment in the IT intelligence and security industry, including carrying out security-sensitive work such as that undertaken by the Respondent, should not be determined to any extent by a person’s associates or perceived associates. The Claimant has sought to broaden this into a philosophical belief of wider application, but it is not sufficiently coherent or developed to satisfy the Grainger criteria. In particular it fails the third criterion because it is too specific to be said to concern a “weighty and substantial aspect of human life and behaviour”. It also fails the fourth criterion of cogency, seriousness, cohesion and importance because it appears to have arisen from, and refers specifically to, the single incident complained of by the Claimant. There is no evidence of the Claimant having held this belief prior to these proceedings. The Claimant’s evidence that he has a long-standing belief that he should be able to associate with people considered undesirable by others may explain why he objected to Ms Green’s reaction, but that does not elevate the asserted belief – insofar as it can be defined at all – to a philosophical belief.

### *Belief 3*

62. Belief 3 has similar difficulties of definition because the concepts of “personal development” and “responsibility” are so general as to be almost meaningless as beliefs. The Claimant has not explained what is meant by “positive masculinity”, other than by saying he believed he had additional responsibilities as the “man of the house”, in particular relating to physical tasks. The gist of his evidence was that he believed in working hard and being as financially successful as he could be, despite the challenges of his childhood, in part so that he could support his family. It was not clear what that has to do with “masculinity”. It does not satisfy the third and fourth Grainger criteria because it is too general, and cannot be distinguished from widely-held and entirely uncontroversial notions of hard work leading to success. It does not therefore constitute a philosophical belief.

63. The impression given by the Claimant's evidence, and in particular his oral evidence about his following of Andrew Tate and engagement with other like-minded people, was that the vague notions of having a particular responsibility as the "man of the house" crystallised into something more specific when the Claimant became aware of Andrew Tate. Whatever messages Andrew Tate was conveying via social media, they clearly resonated with the Claimant and he became an avid fan. This included discussing and sharing ideas with other Andrew Tate fans, in person and on social media. Unlike the other three asserted beliefs, therefore, there is some evidence of the notions relied upon as Belief 3 forming an important part of the Claimant's life before these proceedings. The fact that the Claimant used a picture of Andrew Tate on his messaging profile suggests that he considered Andrew Tate to be a significant and/or admirable person.
64. The difficulty is that no evidence was presented to the Tribunal at all about Andrew Tate or the beliefs or messages expressed by him. Although he is a well-known name, he is not so prominent or influential that it would be appropriate to take judicial notice of his views, even if I had detailed knowledge of them (which I do not).
65. Leaving aside the aspect of the Claimant's life that involves following and discussing Andrew Tate, there is insufficient evidence of anything defined and coherent such as to satisfy the Grainger criteria. The following in itself cannot constitute a philosophical belief in circumstances where there is no evidence of the opinions or belief systems that Andrew Tate represents or espouses. Belief 3 does not therefore amount to a philosophical belief.
66. None of that is to minimise the importance to the Claimant of the principles asserted by him. I have no doubt that he has a strong work ethic and a strong sense of personal responsibility. In his statement he repeatedly refers to this as a "belief system", possibly at the suggestion of ChatGPT, but there is nowhere near enough evidence of a coherent and substantial belief system that would come within the ambit of section 10 of the EqA.

#### *Belief 4*

67. The Claimant defines Belief 4 as "the value and necessity of transparency and uninhibited inquiry in the workplace". Again, the Claimant struggled to explain what this means except by reference to his specific complaint that his enquiry about travelling to Ukraine may have contributed to his failed vetting and therefore his dismissal. The idea that there is "no harm in asking" is simply that, an idea. At its highest it is a principle, that it is always better to ask if one is unsure, and that no-one should be deterred from asking questions. That is not to suggest that there will always be clear lines between ideas, principles, opinions and beliefs, but there is a spectrum. Assessing asserted beliefs according to the Grainger criteria, in particular the third and fourth criteria, includes considering where on that spectrum the asserted belief falls. I consider that Belief 4 is, in reality, no more than the Claimant's opinion that it is unfair to be penalised for asking questions or revealing information at work. That is too narrow to be said to concern a "weighty and substantial aspect of human life and behaviour" (see, e.g., Harron (above) concerning an asserted belief in the need for probity in public expenditure). Further, it does not have a sufficient



level of cogency, seriousness, cohesion and importance to constitute a philosophical belief.

*Conclusion*

68. Having found that none of the Claimant's asserted beliefs amount to a philosophical belief in accordance with section 10 of the EqA, the complaints of direct discrimination and harassment are dismissed.

Strike-out/ deposit

*Victimisation*

69. The Respondent argues that the letter of 12 October 2022 did not constitute a protected act and that the victimisation complaint should be struck out on that basis. I am not persuaded that the Claimant would have no reasonable prospect of establishing that the letter was a protected act. It asserted that his dismissal was "discriminatory in nature". Although it did not refer to any protected characteristic, the question of whether a bare assertion of discrimination constitutes a protected act depends on the circumstances and would be a matter for evidence at the final hearing.

70. The real problem with the victimisation complaint is the chronology, which is clear from the documents and undisputed. The email from the Respondent withdrawing the "dismissal offer" and confirming that the Claimant would only be paid one month's notice pay came before the alleged protected act. Indeed it appears to have been that email that upset the Claimant and prompted him to write the letter of 12 October.

71. As for the allegation that the Respondent "closed down communications" about the dismissal offer, it is true that the Respondent wrote "We are now closing all correspondence on this matter" in an email acknowledging receipt of the 12 October letter, but this was not a change in position from the email that preceded the Claimant's letter, and in fact on 17 October it did re-open discussions and reinstated the previous offer, albeit with an adjustment to the position on the medical insurance because that had already lapsed. It is not in dispute that the Claimant was ultimately paid the additional two months' pay and an amount to reflect the cost of the medical insurance until 26 February 2023.

72. In those circumstances I find that the Claimant has no reasonable prospect of establishing that either of the alleged detriments were causally linked to the protected act, and no reasonable prospect of establishing that the second alleged detriment occurred.

*Breach of contract*

73. The breach of contract claim has no reasonable prospect of success for two principal reasons. First and foremost there is no prospect of the Claimant establishing a contractual obligation to continue his medical insurance until 26 February 2023. Even if the "goodwill gesture" to continue the medical insurance to that date was part of the offer made to the Claimant on 5 October 2022, it is

not in dispute that the Claimant did not accept it. The offer was then withdrawn on 12 October. There was no concluded agreement.

74. Further, the jurisdiction of the Tribunal in respect of breach of contract is limited to claims that arise or are outstanding on the termination of the employment of the employee. It is not in dispute that the Claimant's employment ended on 3 October. Any agreement that came after that date would have been a separate contractual arrangement to pay the Claimant an additional sum in exchange for the Claimant signing a non-derogatory statements clause. The Claimant accepts the claimed breach of contract was not outstanding on the termination of his employment. On any view it did not "arise on the termination" of the Claimant's employment either.

75. I therefore conclude that both the victimisation complaint and the claim for breach of contract should be struck out on the basis that they have no reasonable prospect of success.

Employment Judge Ferguson  
Date: 28 November 2023

Reserved Judgment & Reasons sent to the Parties:  
08 December 2023

FOR EMPLOYMENT TRIBUNALS