



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr Kevin Legge

v

The Environment Agency

Heard at: Norwich

On: 16 January 2024 (Reading Day)
17, 18, 19, 22, 23, 24, 26, 29, 30 and 31 January 2024

Before: Employment Judge Postle

Member: Mr D Hart (one Member sitting with the consent of the parties)

Appearances

For the Claimant: In person

For the Respondent: Mr Chegwidden, Counsel

JUDGMENT

The unanimous Judgment of the Tribunal is:

1. The Claimant's Claims under the Equality Act 2010 for direct discrimination on the grounds of religion and belief, sex discrimination and victimisation are not well founded.
2. The Claimant's Claim for unfair dismissal was dismissed upon withdrawal on the ninth day of the Hearing.

REASONS

The Claims and Issues

1. The Tribunal were comprised at the outset of the proceedings by an Employment Judge and one Member, Mr Hart from the Trade Union side. The parties having been notified of this prior to the commencement of the Hearing and had consented to this and confirmed their consent by signing a written Agreement to the Tribunal sitting with one Member.

2. The Claimant originally brought a number of Claims to the Tribunal under the Equality Act 2010 (“EqA”) and the Employment Rights Act 1996 (“ERA”). In summary the Claims were for:
 - 2.1. Direct religion and belief discrimination – s.10 EqA 2010;
 - 2.2. Direct sex discrimination – s.13 EqA 2010;
 - 2.3. Victimisation (for sex and religion and belief) – s.27 EqA 2010;
 - 2.4. Ordinary Unfair Dismissal – ERA 1996.
3. The specific issues were set out and agreed before Employment Judge M Warren at a Case Management Hearing on 12 June 2020 and subsequently with some amendments at the Case Management Hearing before Employment Judge Laidler on 24 October 2022. The Claimant, following the Reading Day wished to make some further amendments to the above Issues, notwithstanding both Case Management Summaries making it clear if the Issues were not agreed the parties should notify the Tribunal within 14 days. The Claimant made no such Application within that period, leaving the written Application to the Tribunal as late as November 2023. Such Application had been left for the Hearing.
4. After hearing submissions from Mr Legg and Mr Chegwidan, Counsel for the Respondent, given the very late Application for Amendment and the fact the Claimant was on notice in October 2022 that if the Issues at that stage were not agreed, he must notify the Tribunal within 14 days. He failed to do so.
5. The Tribunal therefore determined that having regard to these new Amendments, the lateness of the Application, the balance of hardship to the Claimant in not allowing them, the number of Issues already before the Tribunal, the prejudice to the Respondent and taking into account all relevant factors including guidance contained in the well known Selkent case, the Application to further amend was refused.
6. The Issues are identified in the Hearing Bundle at pages 73 – 78 as amended by Employment Judge Laidler at the Preliminary Hearing in October 2022. These Issues in the course of this Hearing, particularly on the seventh day of evidence and further prior to submissions on the ninth day, withdrew the following:-
 - 6.1. Under direct religion and belief the following were withdrawn by the Claimant:-
 - 6.1.1. Issue – 69.2
 - 6.1.2. Issue – 69.5;
 - 6.1.3. Issue – 69.11;
 - 6.1.4. Issue – 69.12;
 - 6.1.5. Issue – 69.13;
 - 6.1.6. Issue – 69.15;

- 6.1.7. Issue – 69.20;
- 6.1.8. Issue – 69.21;
- 6.1.9. Issue – 69.22; and
- 6.1.10. Issue – 69.23.

6.2. Under direct sex, the Claimant wished to withdraw:-

- 6.2.1. Issue – 72.7

6.3. Under victimisation, the Claimant wished to withdraw:-

- 6.3.1. Issue – 75.1;
- 6.3.2. Issue – 75.2;
- 6.3.3. Issue – 75.3; and
- 6.3.4. Issue – 75.5.

6.4. The Claimant confirmed in the course of this Hearing he also wished to withdraw the ordinary unfair dismissal Claim under the Employment Rights Act 1996.

7. The Tribunal questioned the Claimant a number of times to ensure it was his stated wish to withdraw all the above Claims, including the Claim under the Employment Rights Act 1996, and the Claimant confirmed he wished to do so.

8. However, on the day prior to submissions, the Claimant informed the Tribunal that he now wished to re-instate his unfair dismissal Claim. Again, having heard from both the Claimant and Counsel for the Respondent that Application was refused on two grounds:-

8.1. Firstly, the Claimant had made it perfectly clear his intention to withdraw the unfair dismissal Claim and the Judge went to some considerable length to ensure that was his stated wish and further that cross examination was completed with the Claimant on the basis that the unfair dismissal Claim had been withdrawn; and

8.2. Secondly, under Rule 51 of the Employment Tribunal Rules and Procedure 2013 makes it clear a withdrawal of a Claim amounts to an end of that Claim.

Evidence

9. In this Tribunal we heard evidence on behalf of the Respondents from:

- 9.1. Lucy Hunt, Operations Director;
- 9.2. Lee Rawlinson, Direct of Services Operations;
- 9.3. Chris Back, Complex Review and Support;
- 9.4. Nicola Lawton, Director of Strategy and Planning;

- 9.5. Adam Lines, Area Environmental Manager;
- 9.6. Joanna Larmour, Deputy Director of Estates;
- 9.7. Luke Farrington, Deputy Director of Estates;
- 9.8. Ruth Pontillo, not attending; and
- 9.9. Lesley Worswick, absence abroad.

All giving their evidence through prepared Witness Statements.

- 10. The Claimant gave evidence through a prepared Witness Statement and called no further evidence.
- 11. The Tribunal also had the benefit of a Bundle of documents, particularly six lever arch files totalling 2,800 pages and a further Bundle produced by the Claimant marked with 296 pages.

Findings of Fact

- 12. It is accepted the Claimant was the joint carer of his ten year old son which involves three days one week, two days the following week during school closure periods as a result of lockdown during Covid. It should be noted that the Respondent fully supported this during the Covid pandemic and allowed the Claimant to work in effect five days in every ten days with full pay.
- 13. The Respondent is the Environmental Agency. It is a Non-Department Public Body formed in 1996 following the enactment of the Environment Act 1995 and it is a body corporate with statutory responsibility for the protection of the environment in England. It employs approximately 10,000 people.
- 14. It is accepted that the Claimant commenced his employment with the Respondents on or about February 2005. In August 2012 the Claimant has been employed as the Estates Technical Manager in the Estates Department. The Estates Department comprises of professional Surveyors and non-qualified staff (including the Claimant) whose function is to support the full range of work arising from property matters, including the National Capital Programme which involves the installation and maintenance of flood defence works and other land management type works. The day to day Estates work involves acquiring land, disposing of land, claiming compensation and managing Landlord and Tennant matters. The Respondent therefore owns a substantial property portfolio that requires internal management.
- 15. The Claimant, in August 2012 was provided with a new contract which he signed, which refers to specifically the declaration of interests (page 124). The Respondents also have a Code of Conduct (page 150) which contains

several principles of public life (page 151) and further talks about conflicts of interest and declarations of interest (page 154).

16. The staffing grading structure in the Respondents is as follows: staff are graded from Grades 2 to 7 (Grade 2 being a Junior Administrative post and Grade 7 being a Senior Manager). Beyond Grade 7 is the Executive Leadership Team. In the Claimant's case he was employed as a Grade 7 Senior Manager who at the material times reported to the following Directors:-
 - 16.1. Tony Bell, until 9 December 2018;
 - 16.2. Joanna Larmour, from 10 December 2018 to 18 May 2020;
 - 16.3. Luke Farrington, from 19 May 2020 until the date of the Claimant's dismissal on 7 April 2021.
17. The Claimant sat on the Estates Leadership Team which at the time of his dismissal comprised of eight Grade 7 Senior Managers and the Deputy Director of Estates.
18. In the Claimant's role as Estates Technical Manager, the Claimant's duties and responsibilities involved leading and having strategic oversight of the various Technical Teams or Units in the Estates Department that have responsibility for a variety of operational matters. These Units cover Estates Administration, including billing, ratings, payments, management data relating to both the operational land and assets and corporate office and depots property portfolios, management of the Environment Agency's residential portfolio (largely lock keepers houses) and management of Estates process control documentation.
19. The Estates Department manages its land and property through a mixed team of qualified Surveyors and non-qualified staff. The day to day work of the Estates Department includes acquiring land, disposal of land, managing land and / or Tenants and developing property strategies and dealing with Defra as a client.
20. What is clear is the Estates Team needed updating with the modern strategies of the Respondent. Ms Larmour was clearly tasked with that when she took over. The entire Level 7 Grades were male. It was also clear that she subsequently recruited a further male, albeit one on a temporary basis. It is also clear that the Claimant never actually articulated to Ms Larmour, or indeed anybody else, his leaning on non-feminism.
21. Part of the development of Grade 7 and an important task was to ensure Managers spent time completing Leadership tasks rather than just focusing on operational issues. Those objectives can be seen at page 436 – 437. Another Team development was to include non-Estates Team members on all interview panels to ensure fresh ideas with current recruitment. There was no hidden agenda in seeking this. It would appear

that although originally the Claimant supported Ms Larmour and on the surface got on well, that relationship quickly deteriorated and became strained. It is also clear, the Claimant was not happy with the Department seeking to achieve more diversity and inclusivity within that Department, reflecting society and the people the Employment Agency represented. This was at odds with his non-feminist views. Changes were made by Ms Larmour over Team Meetings, for example video conferences, telephone conferences, reduced travel to meetings and thus reducing the need for overnight stays. This would of course benefit all staff regardless of gender and whether they had children or not.

22. Clearly some of the changes that Ms Larmour wanted to achieve, the Claimant and other members of the Team were not happy with. It seems the case that some in the Team were hostile towards Ms Larmour, as was the Claimant. That ultimately led to the relationship between the Claimant and Ms Larmour becoming increasingly strained. That was evident, particularly by the appointment by Ms Larmour of Mr Luke Farrington to Estates Business Manager and the removal of Angela Mullins from the Claimant's Line Management. Ultimately there were concerns over the Claimant's performance which led to Informal Performance Management which ultimately was never in fact implemented.
23. It is true that the Claimant was originally receptive to an Estates Business Manager's post. It is clear this was discussed between the Claimant and Ms Larmour in late November 2018 and early 2019. However, subsequently the Claimant became concerned where this new role would fit. What is clear is this role was not a duplicate of the Claimant's role as the Claimant's role was leadership and strategic technical dealing with operational matters. Mr Farrington's role was entirely different to manage the client relationship with Defra.
24. It is also clear that Angela Mullins' move to Mr Farrington had been discussed at length and again there was no agenda in effecting it and had no affect on the Claimant's role or ability to perform it.
25. The first six months of Ms Larmour's appointment was spent observing her Team, their performance and interaction with colleagues. At the mid-year Performance Review with the Claimant on 22 October 2019, they discussed understanding the Claimant's role, as previously with the Claimant (pages 483, 442 and 505).
26. It is also true that previously Ms Larmour had emailed the Claimant in August over some issues she felt the Claimant needed to address (at pages 438 and 439). One of which was vacancies in the Claimant's Team which had been there for some time and the lack of recruitment. The Claimant's excuse was recruitment took up too much of his time and he was too busy. Ms Larmour was not clear on what the Claimant was too busy with, nor could the Claimant point specifically to what he was working on and indeed he seemed reluctant to spend time prioritising strategic activities Ms Larmour had suggested. There was also an issue over a vacancy and a member of staff indicating she had been told by the

Claimant it was not available to part time staff, that member of staff being a female.

27. Ms Larmour's reasonable view of the Claimant's performance was that the Claimant was requiring improvement and he was therefore awarded a rating of 'approaching expectations'. Ms Larmour felt that with a structured support plan the Claimant could meet expectations by the year end, that is March. The Claimant was not the only person in the Team not meeting expectations. It is also the case that Ms Larmour verbally told the Claimant on a number of occasions what was required in order to improve his performance. This was clearly set out in a number of emails on 25 March 2020. However, the Claimant kept questioning the performance concerns and again Ms Larmour set them out on 8 April 2020 (at page 841 – 842). All of which were reasonable, fair criticism by a Deputy Director of one of the Senior Managers in her department. It is clear the Claimant was hostile and uncooperative in his response to the performance issues, all of which had nothing to do with the Claimant's caring responsibilities of his ten year old son. The Claimant clearly was not happy. One particular aspect was the failure by the Claimant to progress a Residential Strategy that had been requested by a previous Line Manager and apparently the Claimant had done nothing to progress it for reasons best known to the Claimant. In fact he was resistant to moving the project forward despite Ms Larmour on a number of occasions setting out the reasoning for this project and what was required.
28. In the meantime, on 6 June 2019, a meeting had been arranged by telephone to avoid the Claimant having to travel. Apparently the Claimant had difficulty joining the meeting, that meeting was important and was attended also by Katherine Forster. It is clear the Claimant had experienced difficulties with IT and was unable to join the meeting at the start because of the issues he had with IT.
29. Ms Larmour fully accepts she was frustrated by this as this was not the first time it had happened. Ms Larmour said the Claimant was trying to join the meeting and sent him instructions on how to dial in. As the Claimant's Line Manager she clearly expressed her annoyance at the Claimant's delay, but it is clear her response to the situation would be the same regardless of sex; a female would have been spoken to in exactly the same manner. Nor did it have anything to do with the Claimant's beliefs.
30. Further, there is no evidence that Ms Larmour was sending the Claimant vague or meaningless work. If by that the Claimant is referring to the Residential Strategy, that was a piece of work clearly requested from above and given the financial role in Estates at the time, this work was clearly important.
31. By March 2020, Ms Larmour was concerned about the Claimant achieving the objective on the Improvement Plan, whilst at the same time caring for his son during lockdown. As a result Ms Larmour, after discussions with HR, offered the Claimant Special Paid Leave for 12 weeks to sort out

schooling and caring for his child. Ms Larmour did make it clear if the Claimant declined the offer then clearly the Improvement Plan would have to continue and if the Claimant did not meet expectations in accordance with the Respondent's procedures, the matter would become a capability issue and thus a formal process which could lead to dismissal. That was confirmed in an email to the Claimant on 6 April 2020 (page 895). The Claimant took the paid Special Leave which was clearly supportive of the Claimant and particularly his childcare responsibilities.

32. In May 2020 Ms Larmour was appointed to a new role leaving the Estates Department. Mr Farrington was appointed Deputy Director of Estates and therefore Line Managing the Claimant. In mid-May the Claimant submits his Grievance naming Ms Larmour (page 1060). Although there is reference to gender and limited reference to discrimination, nowhere does the Claimant reference any philosophical beliefs. Lesley Worswick and Adam Lines, not known to the Claimant, are appointed to investigate the Grievance and interview a number of witnesses, originally the Claimant providing 26 names to interview. The Grievance centres on Ms Larmour and there are six main areas. It was an extremely long, lengthy and wordy Grievance (page 1062 – 1079). Terms of reference were produced on 11 June 2020.
33. There is no evidence the Claimant was prevented from working flexible time, far from it. He had five days out of ten for the caring of his child and home schooling and he had Special Paid Leave to home school his child during lockdown.
34. Ms Larmour may well have said to the Claimant in discussions during lockdown about utilising the education programmes on television for additional help schooling and may well have discussed this with her Team, many of which had child caring responsibilities and shared useful information during lockdown of home schooling.
35. Equally, it is clear Mr Farrington was relaxed. He Line Managed the Claimant and his attendance at meetings, allowing him to join them late, leave them early if the Claimant or indeed other members of staff had commitments to childcare. In the meantime, in the course of Ms Larmour preparing her evidence for the Grievance, she had been concerned about the Claimant's hostility towards her and her own safety. When checking social media and having Googled the Claimant she noticed that the Claimant was a practising Psychotherapist. In turn she informed Mr Farrington, the Claimant's new Line Manager. Mr Farrington also as a result of his research discovers the Claimant's online presence as a Psychotherapist and Mr Farrington then instigates an investigation process completing Form AM. At this stage, or indeed at any stage, the Claimant had not declared this outside interest or discussed it with any of his Line Managers.
36. It is the case that the Claimant continued to provide additional information on his Grievance. Witnesses the Claimant had asked to be interviewed were seen, save for Ms Mutua, Brian Hall and Richard Porter. They were

approached but declined to be interviewed. They clearly cannot be forced and there is no reason to disbelieve his evidence. Mr Fraser was in part on long term sick and ultimately he left the Respondents. As did David Horsfall. It is accepted that the investigation did take time, but given the extent of the investigation and that it occurred during a time when the UK was largely in lockdown for the Covid-19 pandemic, the investigation was nevertheless reasonable and thorough. There is no evidence that either investigators approached their enquiries in a selective or bias manner in the way they gathered evidence.

37. Indeed, when Mr Wilson heard the Grievance he partly upheld Allegations 2, 4 and 6. But he concluded there had been no evidence that the reason for the Claimant's treatment was anything to do with the Claimant's gender (page 2786). Furthermore, given the size of the Grievance there is no evidence to support the fact that the Grievance was unnecessarily delayed to take place after the Claimant's Disciplinary Hearing. The Claimant did not appeal the outcome of the Grievance.
38. In the meantime, Mr Back of the Complex Review Support Team, by his own Line Manager, was tasked by the Director of Legal Services Mr Kellett to carry out an investigation as to whether the Claimant had potentially committed misconduct in that:-
 - 38.1. Dishonestly failed to disclose information for his own gain which could lead to a finding of fraud;
 - 38.2. Breached the Environmental Agency's Policy regarding acceptable use of communication systems and electronic equipment (i.e. using the Respondent's equipment for his own business);
 - 38.3. Breached the following section of the Environment Agency Code of Conduct 150 – 156 that outside work adversely affected the Environmental Agency's duties and the declaration of other work outside the Environmental Agency and help monitor the Working Time Directive obligations by ensuring excessive hours were not worked.
39. The first desktop Report dated 25 September 2010 (page 1460) confirmed the Claimant was advertising his psychotherapy sessions on three websites which the Claimant subsequently confirmed most of his bookings came through the Harley Agency. The Harley website also provides details of the number of bookings a Therapist has had in the last 48 hours. What could not be established at this stage was whether the bookings conflicted with working hours. What it did show was the Claimant offered appointments throughout the day from 0600 to 2300 hrs (page 1297) and on the directory website the Claimant offered availability in mornings, evenings and weekends. Mr Back's Report was sent to Mr Kellett and Lucy Hunt for a Review. The recommendations were that there was enough evidence that the Claimant had potentially breached the Code of Conduct and a more covert investigation was needed (page 1469).

40. There was then a Case Conference on 1 October 2020 with Mr Kellett, Ms Hunt and Mr Back. Following this it was agreed (page 1695) to use an Inquiry Agent to book an appointment during working time with the Claimant.
41. An Inquiry Agent booked an appointment via the Harley website with the Claimant. That booking was made at 2136 on 4 November 2020 for a therapy session the next day 5 November 2020 at 1430 when it was known the Claimant had two Environmental Agency meetings. The session went ahead. Shortly into the session the Inquiry Agent then made an excuse to leave.
42. Interestingly, the Claimant on 5 November 2020 requested last minute leave to allow him to be absent in the afternoon on the basis of a burst pipe.
43. Following the Inquiry Agent's booking Mr Back then submitted further evidence (page 2026) to HR dated 30 November 2020 and 2 December 2020. Following a further Case Management Conference it was agreed to put the allegations to the Claimant via his Line Manager in accordance with the Respondent's Disciplinary Policy and Procedures.
44. Mr Farrington put the allegations to the Claimant on 14 December 2020 and there is typed script of the Claimant's comments at pages 2007 – 2010 and the note records that when the allegations were put to the Claimant including one that he had been operating an external business as a Counsellor, the Claimant responded that he agreed with that but not 2 and 3, i.e. accepting he had been operating an external business as a Counsellor and failed to submit a Declaration of Interest. However, he did not agree that he had been working as a Counsellor during normal working hours and this had a significant adverse effect on his capability. Nor did he agree that he breached the Code of Conduct by booking annual leave having given a fictitious reason for a burst pipe at home.
45. Going back in time, the Claimant having returned from Special Leave on 29 June 2020 with agreed annual leave in August and September, the Claimant was returning to his normal contractual hours and what is clear the Claimant was not performing as a Senior Manager should, he needed significant support to write his Performance Objectives and continued to challenge reasonable management instructions to deliver the Residential Strategy. When challenged about his work his excuse or response was that he needed to spend substantial time on his Grievance.
46. A Christmas social was planned for November 2020 to be held by Teams video and that was arranged by Mr Farrington's PA who had to invite about 120 people and clearly would not have been able to accommodate everyone's wishes as to the timing.
47. On 15 December 2020 Mr Farrington sent to the Claimant (page 2012) the allegations and the Seven Principles of Public Life and confirms his

electronic access to the Environmental Agency System was suspended, but his mobile telephone would remain live.

48. Mr Back then interviewed Mr Farrington on 18 December 2020 (page 2046 - 2055). The Special Leave that the Claimant had been put on now was paid and the Claimant was interviewed on 6 January 2021 with his Trade Union Representative present (page 2070 - 2086). The key question Mr Back was asked to investigate was whether the Claimant was operating a business during working hours. The Claimant's view was that his Psychotherapy business was not impacting on his delivery and he was able to work flexibly to accommodate therapy sessions. It became clear that the Claimant was servicing appointments during a period of Special Leave in April to June 2020, despite that leave being for Home Schooling and childcare. Following the Claimant's interview with Mr Back, amongst other evidence, he was asked to provide evidence particularly from the Harley website as to the list of appointments that he had undertaken. This was never provided. The only evidence of appointments that the Claimant provided was his own Word document which could not be verified.
49. Mr Back's final Report of his investigation was sent to Peter Kellett and Lucy Hunt on 12 February 2021 (page 2131 – 2146). The Report is clearly thorough and balanced, Mr Back having no axe to grind with Mr Legge. Ultimately only Mr Farrington gave evidence at the Disciplinary, not Ms Hunt and Ms Larmour.
50. On 26 February 2021, the Claimant's Special Leave was extended to the date fixed for the Disciplinary. Due to problems in HR finding someone independent to Chair the Disciplinary Hearing as a result of work commitments.
51. On 4 March 2021 the Claimant was formally suspended (page 2168).
52. On 9 March 2021 the Claimant was invited to a Disciplinary Hearing (page 2176). It sets out the allegations, the right to be accompanied, the right to call witnesses and stating an outcome could be dismissal.
53. The Hearing was set for 23 March 2021 and subsequently rearranged. The allegations being four and they were:-
 - 53.1. Allegation 1 – that he had for some time been operating an external business as a Counsellor and in serious breach of contract had failed to submit a Declaration of Interest in the required manner as described in his Employment Contract dated 29 August 2012;
 - 53.2. Allegation 2 – that he had seriously breached the Environmental Agency Code of Conduct by working as a Counsellor during normal Environmental Agency working hours as this had an adverse effect on his duties;
 - 53.3. Allegation 3 – that he had committed fraud in accordance with the Environmental Agency procedures by carrying out his

Psychotherapy business during normal working hours whilst being paid a full time salary; and

- 53.4. Allegation 4 – that he had breached the Code of Conduct in that on 5 November 2020 at short notice he booked annual leave having given a fictitious reason of a pipe burst at home in order this leave would be granted but instead did so in order to service his business interests as a Counsellor and doing so missed two scheduled Estates Department meetings.
54. The Claimant was provided with all the evidence provided by Mr Back and evidence was provided to the Disciplinary Panel. By the time the Panel met there was evidence that the Claimant in the last 13 months had carried out 500 plus Consultations which gave him an income of £37,500 which equated to approximately 11 to 14 weeks' full time work.
55. The Disciplinary Hearing was rearranged to 29 March 2021 at the Claimant's request and conducted by Nicola Lawton who was not known to the Claimant. The Minutes of that meeting are at page 2266. It was clearly a lengthy and thorough Hearing and the Claimant had every opportunity to put his evidence and any mitigation to the Panel. The meeting was adjourned for Ms Lawton to consider and for the Claimant to provide any further evidence. Minutes of that meeting were sent to the Claimant for his approval or amendment, the Claimant did not respond.
56. The outcome of the Disciplinary Hearing was:-
 - 56.1. Allegation 1 – upheld on the basis that all outside work should be declared;
 - 56.2. Allegation 2 – upheld on the basis that the Claimant had breached the Environmental Agency Code of Conduct by taking on commitments outside work which created a conflict;
 - 56.3. Allegation 3 – that the Claimant had deceived the Environmental Agency through being dishonest and concealing information about his life outside work and it was further concluded this dishonesty meets the Environmental Agency's definition of fraud; and
 - 56.4. Allegation 4 – the Panel were not able to reach a reasonable view as to whether there was or was not a burst pipe on 4 or 5 November 2020, therefore this allegation was not upheld.
57. The outcome was confirmed in writing on 7 April 2021 at pages 2305 – 2314 where comprehensive reasoning for that decision to dismiss was given. The Claimant duly Appealed by letter of 20 April 2021 (page 2351), the Grounds for Appeal being perceived unfairness of the outcome, severity of the penalty, new evidence not considered at the previous meeting and perceived procedural irregularities. No further information was provided as to the basis of these reasons for appeal.

58. A Director was appointed to hear the Appeal in accordance with the Respondent's Appeal Policy (pages 247 – 251). Mr Rawlinson, the Director appointed was provided with the Investigatory Report, Supplementary Investigation Report and notes of the Disciplinary Outcome Letter. The Claimant was invited by letter of 5 May 2021 for a Hearing listed for 11 May 2021 (page 2476), that was rearranged at the Claimant's request to 1 June 2021. The Appeal Hearing consisted, again in accordance with the Respondent's Procedures, of a Panel of two and the other person being Mr Jim Barlow. Notes of the Appeal are at pages 2537 – 2540.
59. At the outset of the Hearing it was confirmed it was not a re-hearing. They were going to consider any new evidence, mitigating factors and focus on the Claimant's Grounds of Appeal that he had put forward.
60. There was a further Hearing on 3 June 2021 to allow the Claimant to present further evidence (page 2540) and the Claimant was given full opportunity to set out his reasons for the Appeal.
61. Mr Rawlinson and Mr Barlow adjourned to reflect and the outcome was given by telephone call on 9 June 2021 (page 2453), it was explained the decision was to uphold the dismissal and full reasons were given in an Outcome Letter dated 9 June 2021 sent to the Claimant (pages 2568 - 2572). It is clear from that letter that the Panel responded to each and every Ground of the Claimant's Appeal and set out their reasoning.

Credibility

62. It has to be said the Claimant's evidence to the Investigation and Disciplinary process at the time was evasive and unhelpful which has been replicated during the course of this Tribunal Hearing. The Claimant often evading a question, his answers and his evidence was at times self-serving. Even when put to him documentary evidence that spoke for itself, the Claimant would not accept.
63. For example, on 12 August 2020, by his own admission the Claimant was conducting therapy sessions between 1000 and 1100 at a time when he sought to decline another one hour work meeting with Mr Farrington, on the pretence he wanted to focus totally on his Grievance whilst conducting therapy sessions. To cover this up he inserted a false description of his activity in his Outlook diary for 1000 – 1100, slotting in a Grievance meeting. The Claimant, under cross examination, refused to accept this conduct was, putting it bluntly, dishonest.
64. Furthermore you cannot escape the conclusion that caring responsibilities, Home Schooling and lack of performance were being used to cover for his ever increasing therapy sessions whilst employed by a Public Body in receipt of a full salary.

65. The Claimant's inability to understand or accept that the extent of his therapy sessions would ultimately adversely affect his duties as an employee of the Environmental Agency.
66. Furthermore, during the course of the Investigation and Disciplinary process, he provided one list of therapy sessions. At the time of the Appeal he produced again his own list which was substantially longer than the list he had provided to the Disciplinary Hearing, thereby not being entirely honest as to the extent of his sessions at the Disciplinary stage.
67. Whereas the Tribunal found the Respondent's Witnesses honest, reliable and consistent in their evidence.

The Law

68. The Tribunal were slightly perplexed by the Claimant's philosophical belief being a non-feminist. It would appear to the Tribunal a feminist is simply about all genders having equal rights and opportunities as men. Something the Environmental Agency strived to achieve is an inclusive workforce and still maintaining the best candidate for the roles. It is an aspiration that the workforce fully reflects the diversity of the society it seeks to serve.
69. It would appear, Section 10 of the Equality Act 2010, consciously mirrors that in the European Convention on Human Rights, particularly Article 9 which 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 in private to manifest his religion or belief, in worship, teaching, practice and observance.
 2. Freedom to manifest one's religion or belief 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 freedom of others.
70. Pursuant to the convention, the freedom to hold and manifest belief is to be enjoyed without discrimination as defined by Article 14 of the ECHR:

The enjoyment of the rights and freedom set forth in the Convention shall be secured without discrimination on any ground such as religion, political or other opinion.
71. Pursuant to Section 3 of the Human Rights Act 1998, domestic legislation must be read insofar as possible to give effect to Convention rights save where a construction would run counter to a fundamental feature of the legislation: Ghaidan v Godin-Mendoza [2004] 2 AC 557. Where the inclusionary language of Section 10 mirrors that in Article 9, it would be

both bizarre and by reason of Section 3 of the Human Rights Act 1998 unlawful if a belief were recognised under the Conventions but not under the Equality Act 2010.

72. Freedom of thought conscience and religion as one of the foundations of a democratic society within the meaning of the Convention. In its religious dimension, it is one of the most vital elements that goes to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned.
73. It follows that beyond an evidential enquiry into whether a belief is genuinely held, an individual is free to believe as he or she wishes. Per Lord Nicholls at (22) in R (Williamson) v Secretary of State for Education and Employment [2005] 2 AC 246, paragraph 22 of that Judgment provides:

“It is necessary first to clarify the court’s role in identifying a religious belief calling for protection under Article 9. When the genuineness of a Claimant’s professed belief is an issue in the proceedings the court will inquire into and decide this issue as a question of fact. This is a limited inquiry. The court is concerned to ensure an assertion of religious belief is made in good faith: ‘neither fictitious, nor capricious, and that it is not an artifice’... But, emphatically, it is not for the court to embark on an inquiry into the asserted belief and judge its ‘validity’ by some objective standard such as the source material upon which the claimant founds his belief or the orthodox teaching of the religion in question or the extent to which the claimant’s belief conforms to or differs from the views of others professing the same religion. Freedom of religion protects the subjective belief of an individual... religious belief is intensely personal and can easily vary from one individual to another. Each individual is at liberty to hold his own religious beliefs, however irrational or inconsistent they may seem to some, however surprising...”

74. Article 9 is not, however, confined to the freedom to hold a belief,

“It includes the right to express and practice one’s belief without this (the freedom) would be emasculated”

per Lord Nichols at (16).

75. In the context of expression or manifestation an evaluative filter is necessary. Per Lord Nicholls at (23 – 24):

Paragraph 23 – “Everyone therefore is entitled to hold whatever belief he wishes. But when questions of ‘manifestation’ arise, as they usually do in this type of case, a belief must satisfy some modest, objective minimum requirements. These threshold requirements are implicit in Article 9 of the European Convention and comparable guarantees in other human rights instruments. The belief must be consistent with basic standards of human dignity or integrity. Manifestation of a religious belief, for instance, which involved subjecting others to torture or inhuman punishment would not

qualify for protection. The belief must relate to matters more than merely trivial. It must possess an adequate degree of seriousness and importance. As has been said, it must be a belief on a fundamental problem. With religious belief this requisite is readily satisfied. The belief must also be coherent in the sense of being intelligible and capable of being understood. But, again, too much should not be demanded in this regard. Typically, religion involves belief in the supernatural. It is not always susceptible to lucid exposition or, still less, rational justification. The language used is often the language of allegory, symbol and metaphor. Depending on the subject matter, individuals cannot always be expected to express themselves with cogency or precision. Nor are an individual's beliefs fixed and static. The beliefs of every individual are prone to change over his lifetime. Overall these threshold requirements should not be set at a level which would deprive minority beliefs of the protection they are intended to have under the Convention."

Paragraph 24 – "This leaves on one side the difficult question of the criteria to be applied in deciding whether a belief is to be characterised as religious. This question will seldom, if ever, arise under the European Convention. It does not arise in the present case. In the present case it does not matter whether the claimant's beliefs regarding the corporal punishment of children are categorised as religious. Article 9 embraces freedom of thought, conscience and religion. The atheist, the agnostic and the sceptic are as much entitled to freedom to hold and manifest their beliefs as the theist. These beliefs are placed on an equal footing for the purpose of this guaranteed freedom. Thus, if its manifestation is to attract protection under Article 9 a non-religious belief, as much as a religious belief, must satisfy the modest threshold requirements implicit in this article. In particular, for its manifestation to be protected by Article 9 a non-religious belief must relate to an aspect of human life or behaviour of comparable importance to that normally found with religious beliefs. Article 9 is apt, therefore, to include a belief such as pacifism: Arrowsmith v United Kingdom [1978] 3 EHRR 218. The position is much the same with regard to the respect guaranteed to a parent's 'religious and philosophical convictions' under Article 2 of the First Protocol: see Campbell and Cosans v United Kingdom 4 EHRR 293."

76. Therefore, since Granger Plc v Nicholson it is clear that the criteria identified in Williamson are to be transposed to the application of Section 10 of the Equality Act 2010.
77. I repeat, the statutory Code of Practice at paragraph 2.59 comes within the auspices of Section 10 protection, a belief must, therefore:
 - i. Be generally held;
 - ii. Be held as a belief and not as an opinion or viewpoint based on the present state of information available;
 - iii. Be a belief as to weighty and substantial aspect of human life and behaviour;

- iv. Attain a certain level of cogency, seriousness, cohesion and importance;
 - v. Be worthy of respect in a democratic society;
 - vi. Be compatible with human dignity; and
 - vii. Not conflict with the rights of others.
78. The Tribunal accepts the Claimant genuinely held the non-feminist belief. That it is just about a belief not an opinion or viewpoint, although even that is questionable. Whether his belief is weighty and can be described as a substantial aspect of human life is again questionable. Likewise, on the question of attaining a certain level of cogency, seriousness, cohesion and importance. It is certainly not worthy of respect, or compatible with human dignity and does conflict with the rights of others.
79. In fact the Tribunal felt that his maintaining his non-feminist view was in fact discriminatory in itself.
80. However, in accepting the Claimant's lack of belief for the purpose of these proceedings is a philosophical belief within the intended meaning of Section 10 of the Equality Act 2010, we have nonetheless dealt with it on that basis.
81. For the purposes of the sex discrimination claim, clearly the Claimant identifies as a man and his comparator is hypothetical, namely a female in an equivalent position to the Claimant who also co-parents her child fifty per cent of the time and performance at work is the same as the Claimant's.
82. Furthermore, as to the Claimant's non-belief, all the Respondent's Witnesses gave clear and cogent evidence that whilst they supported equality, diversity and inclusion in the workplace, they do not accept feminism in the way the Claimant describes that, or that there is some agenda or conspiracy from higher management to remove males from management positions, or have in some way been looking to appoint females at every opportunity. Indeed, Ms Larmour's first appointment in Estates was to appoint two males, albeit one on a temporary basis. In any event, there is no evidence that the Claimant expressed to management his strong anti-feminist views. Indeed, it is true despite an extremely lengthy and wordy Grievance, not once does the Claimant express his strongly held view about feminism and lack of and belief in it. More to the point that that was the reason for the treatment.
83. Section 10 of the Equality Act provides,

10 Religion or belief

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

84. Section 13 of the Equality Act provides,

13 Direct discrimination

- (1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

85. Section 27 of the Equality Act provides,

27 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—
 - (a) bringing proceedings under this Act;
 - (b) giving evidence or information in connection with proceedings under this Act;
 - (c) doing any other thing for the purposes of or in connection with this Act;
 - (d) making an allegation (whether or not express) that A or another person has contravened this Act.

86. Finally, Section 136 of the Equality Act 2010 provides,

136 Burden of proof

- (1) ...
- (2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.
- (3) But subsection (2) does not apply if A shows that A did not contravene the provision.

Conclusions

Discrimination related to sex or non-belief

87. It is correct in this Hearing that there has been a clear absence throughout the allegations of any real substantial evidential basis which links the Claimant's treatment to his sex or non-belief. Largely everything that

happened to the Claimant is substantiated and the reasons for it were totally unrelated to the Claimant's sex or beliefs. In fact, the Claimant was in many ways the author of his own downfall and the action of the Respondents related either to the Claimant's own capability or conduct.

88. Furthermore, the Claimant often failed to show that the conduct complained of amounted to less favourable treatment in the first place, quite apart from any discrimination. Much of which the Claimant complains about is ordinary workplace disagreements and reasonable management decisions or instructions which the Claimant disagreed with because he thought he knew better. The Residential Strategy being one example.
89. Furthermore, on the arrangement of the Christmas party, Mr Farrington did not arrange the Christmas party, his PA did for 130 staff and clearly it would be difficult to accommodate everybody's wishes as to when that would take place.

Victimisation

90. Dealing briefly with the victimisation Claims, nearly all have been withdrawn by the Claimant and he accepted that one protected act is the raising of the Grievance on 11 May 2020. As the Tribunal noted in hours of cross examination of the Respondent's Witnesses, the Claimant did not ask one question to suggest that any alleged detriments after 11 May 2020 were because he raised a Grievance.
91. Therefore these Claims are dismissed.
92. Even if he could argue that the Disciplinary Hearing was a detriment or dismissal, they are perfectly sound reasons for those actions by the Respondent, namely the information coming to light about the Claimant's outside interests affecting his work and his failure to declare his outside work. They were quite properly kept distinct from the Claimant's Grievance. Insofar as the Grievance is concerned in itself, part of that was in any event upheld, but not in relation to the Claimant's gender.

The Specific Issues

93. Issue 69.1 - *Was Ms Larmour undermining, belittling and humiliating Mr Legge in front of Katherine Forster on 6 June 2019?*
94. It is true there is a little disagreement on the facts here as to what happened. Ms Larmour was frustrated by the Claimant's inability to connect to a call which she had arranged to avoid the Claimant having to travel. The Claimant's lack of IT know how, combined with being late for previous meetings, caused her frustration and irritation. That had nothing to do with the Claimant's belief or sex. It is clear Ms Larmour would have reacted exactly the same with a female in similar circumstances.

Issue 69.2 – withdrawn by the Claimant.

Issue 69.3 – Ms Larmour allocating to the Claimant work which was deliberately vague and meaningless.

95. The first question that arises is why would a Deputy Director issue work to a member of staff that is deliberately vague or meaningless? It just does not make sense. In any event, there is overwhelming evidence that Ms Larmour made it clear what was required from the Claimant, particularly in relation to the Residential Strategy (at B392, B4389 and page 811). It clearly was not meaningless, it was a reasonable management instruction and had nothing to do with sex or belief. Quite simply there was no less favourable treatment.

Issue 69.4 – Ms Larmour giving Mr Legge an unfair Performance Rating without reasonable explanation on 22 October 2019.

96. It is clear Ms Larmour's Performance Rating of the Claimant was supported by the Claimant's new Line Manager the following year, but also Karen Douglas an independent Executive Director appointed to hear the Claimant's Appeal against his Grading who gave detailed reasons for the score. The Tribunal was also referred to a note of a detailed conversation in which the Claimant was told why he had achieved only 'Managing Expectations' and it was nothing to do with his sex or beliefs. There is simply no less favourable treatment.

Issue 69.5 – withdrawn by the Claimant.

Issue 69.6 – Ms Larmour imposing an Improvement Plan on Mr Legge and using it to threaten him with dismissal on 24 February 2020.

97. The first point is she did not impose the Improvement Plan on the Claimant on 24 February 2020. The Claimant had received 'Approaching Expectation' in October 2019, in December 2019 and January 2020 he had been on stress leave, his Performance Improvement Plan was discussed with the Claimant on 30 January 2020 at his Return to Work meeting to ensure the Claimant was clear on the priorities and the way forward. A draft Performance Improvement Plan was sent to the Claimant for his approval on 24 February 2020 (at B509). The Claimant did nothing with it. Because of the Claimant's Grievance and HR advice, it was not taken any further. The Claimant was never threatened with dismissal. The Respondent's Capability Policy, pursuant to that states,

"If an employee fails to improve, then they will be taken down the Capability route which could lead to dismissal".

98. That was explained to the Claimant (at B578). Again, this has absolutely nothing to do with the Claimant's sex or beliefs.

Issue 69.7 – Ms Larmour bombarding Mr Legge with unfair, false and retrospective criticism, for example in a letter of 25 March 2020 and an email of 8 April 2020.

99. There are two emails here expressing management concerns about the Claimant's performance. The Claimant might not like it or disagree but they were not trumped up allegations or false, they were genuine and reasonable concerns about the Claimant's performance. Again, they had nothing to do with the Claimant's sex or beliefs.

Issue 69.8 & 69.9 – Grievance Investigators Messrs. Worswick and Lines selective use of witnesses, avoiding key witnesses, adopting evasive, biased and selective gathering and reporting of evidence.

100. The Claimant accepted in cross examination that it was a lengthy, complex and wordy Grievance. He further accepted the investigation of the Grievance has to be reasonable and proportionate and by the very nature will never be a counsel of perfection. The Investigators used their judgement to choose who to interview. They interviewed 12 people, plus the Claimant, which is an exceptional number. The Claimant was concerned some witnesses he had provided were key and were not interviewed, but there was a good reason why. Namely, Ms Mutua, Mr Porter and Mr Hoyle refused and cannot be forced. At the time Mr Fraser in part of being on long term sick and was in any event on a Performance Improvement Plan, so it is difficult to see how he would have helped the Claimant. Mr Horsfall had left the business and in any event his evidence seemed to have no relevance to the Claimant's Grievance.
101. Therefore it cannot be said that the way the Investigators approached the Grievance was in any way selective, bias or that it avoided key witnesses. There is simply no link to the Claimant's sex or beliefs.

Issue 69.10 – the Investigators avoidance of, or failing to investigate, allegations of discrimination.

102. The Claimant described at the start of his Grievance (page 1060) discrimination on the grounds of sex. He then provided six categories that followed and a lengthy description of his Grievance. Within that there is no mention or reference to discrimination. Rather there were complaints about workplace managerial decisions and instructions.
103. It is true the Claimant mentions in the fourth Grievance mistreatment, unfair as a single father. This was investigated and it is clear from the Report (page 2380 – 2386) that this Claim is simply not made out.

Issue 69.11 – withdrawn by the Claimant.

Issue 69.12 – Investigators delaying the investigation of the Claimant's Grievance until after his dismissal.

104. Here there is absolutely no evidence to support that the Investigators were in some way delaying the Investigation Report until after the Claimant's dismissal. It is accepted Mr Lines was not aware of the Claimant's Disciplinary prior to it and he only became aware after the Claimant had been dismissed. Furthermore, on the Claimant's own admission, it was a

lengthy and complex Grievance by any objective assessment given the fact that the UK was largely in lockdown due to the Covid-19 pandemic at the time and this would evidently take time to proceed, given those factual circumstances.

105. This Claim is simply not made out.

Issue 69.13 – withdrawn by the Claimant.

Issue 69.14 – *Ms Larmour, Mr Farrington giving false statements to fabricate performance issues and overriding the investigation manager's recommendations by hiring a Private Investigator.*

106. This Claim is not made out. Only Mr Farrington gave evidence to the Disciplinary Investigation and what he provided was factually correct. It was clear Ms Hunt did not override Mr Back, there is no evidence that she did. The decision was simply reached and the way forward was to appoint a covert Investigator. That was not linked to the Claimant's sex or belief.

Issue 69.15 – withdrawn by the Claimant.

Issue 69.16 – *an allegation of fabricating performance issues by Ms Larmour.*

107. This is dealt with above.

Issue 69.17 – *Ms Larmour gaslighting and lying about conversations in order to conceal her fabrication by reference to correspondence dated 3 March 2020, 25 March 2020, 17 March 2020, 11 March 2020 and 3 April 2020.*

108. This appears to be an allegation that Ms Larmour stated the Claimant had recall problems because Ms Larmour was concerned with the frequent discussions she was having with the Claimant about matters, which then subsequently the Claimant appeared not to recall having a selective memory of discussions and meetings. This Claim is not made out. It is not in any way linked to sex or belief.

Issue 69.18 – *Ms Larmour threatening legal action and disciplinary dismissal when Mr Legge declined to take three months professional leave.*

109. Again, it is clear the Claimant was offered Special Paid Leave to help out with his Home Schooling during lockdown. It was made clear to him, if he did not take it and continued to work then clearly the performance monitoring of him would continue, insofar as it had started in any event and expectations as to improvement would obviously continue. If there was no improvement, this then risked capability proceedings and ultimately could lead to dismissal. This was clearly not a threat to dismiss and was set out in a letter to the Claimant at the time. This had nothing to do with the Claimant's sex or beliefs.

Issue 69.19 – Ms Hunt, Ms Larmour and Mr Farrington lying and concealing important facts when giving evidence in respect of the Disciplinary Proceedings.

110. Here only Mr Farrington gave evidence in the Disciplinary proceedings so the rest of that claim is factually incorrect. The only part where the Claimant and Mr Farrington disagreed was Mr Farrington's view of the Claimant's performance. Clearly it was a matter of opinion and was a genuine opinion based on the evidence of the Claimant's performance. There is no evidence that anything relevant was concealed by Mr Farrington and clearly had nothing to do with the Claimant's sex or beliefs.

Issue 69.20, 69.21, 69.22 & 69.23 – all withdrawn by the Claimant.

Issue 72.1 – Ms Larmour creating obstacles for him having flexible working arrangements so that he could Home School his son.

111. This is so far from the reality of what was actually offered and the Claimant made use of. Particularly the Claimant was allowed to work three days one week, two days another week; in other words five days in every fortnight. This was on full pay and in order for him to look after his son. He was also given Special Paid Leave during the Covid-19 pandemic of 12 weeks to Home School and look after his son.
112. That Claim simply has not been made out.

Issue 72.2 – Ms Larmour overloading him with work whilst he was Home Schooling his son.

113. This allegation was rejected by Mr Wilson at the Grievance and on the evidence before this Tribunal, the Claimant was not overloaded or bombarded with emails, or threatened with dismissal. It is also noted that the Claimant did not Appeal the Grievance in respect of this allegation which was rejected in any event.
114. Again, this is not linked to the Claimant's sex or belief.

Issue 72.3 – Ms Larmour telling him on 15 March his son should watch television so that he could do his work rather than Home School.

115. In actual fact the Claimant never challenged Ms Larmour on this during cross examination, but in any event, she may well have mentioned to the Claimant as she might have done to other staff during lockdown that there were educational programmes on the television which might help assist parents with the schooling of their child(ren). Clearly that has absolutely nothing to do with sex or belief.

Issue 72.4 – Ms Larmour telling him to get parenting advice from colleagues.

116. Again, the Tribunal repeats Ms Larmour was not challenged when cross examined on this allegation. It would be perfectly reasonable to suggest to the Claimant and other members of the Team to share ideas as to how they are Home Schooling during the lockdown.
117. This clearly has nothing to do with the Claimant's sex or beliefs.

Issue 72.5 – Ms Larmour putting the Claimant on the spot in meetings when he returned from childcare days on 30 March 2020 and 8 April 2020.

118. Again, Ms Larmour was not challenged on this allegation when she was cross examined. In any event, there is no evidence to support this.

Issue 72.6 – allegation in relation to flexible working and Ms Larmour allegedly threatening the Claimant with dismissal.

119. Already dealt with above.

Issue 72.7 – withdrawn by the Claimant.

Issue 72.8 – Mr Farrington deliberately setting meetings at times which would clash with childcare responsibilities in September to December 2020 and in setting the Christmas social in December 2020.

120. There is simply no cogent evidence before this Tribunal to support this allegation. As far as the Christmas party is concerned, it was not even arranged by Mr Farrington, but his PA and clearly she could not accommodate all 100 plus in the department.

Unfair Dismissal

121. Finally, although the Claimant withdrew the allegation of unfair dismissal under the Employment Rights Act 1996 and then asked for it to be reinstated. On the evidence before this Tribunal, if it had been reinstated the Tribunal would have found the dismissal fair and the reason for that is as under Section 98 of the Employment Rights Act 1996, conduct is a potentially fair reason to dismiss.
122. There clearly was a thorough and reasonable investigation into the four Allegations the Claimant ultimately faced. Ms Lawton, upon meeting with the Claimant and upon the Investigation and information before her, had genuine grounds to form a genuine belief in certainly three Allegations being upheld and the fourth giving the Claimant the benefit of the doubt as to whether he concocted a burst pipe as the reason for leave at short notice on 5 November when in fact he might have been covering up a therapy session.
123. It is clear the procedure leading up to and including dismissal was fair and very thorough and that the sanction of dismissal given the facts known to

Ms Lawton at the time she took the decision to dismiss, was well within the band of a reasonable response of a reasonable employer. The Claimant also had the benefit of an Appeal, a thorough Appeal, which although not a re-hearing was a detailed review of the process and full reasons were given as to why the Claimant's Appeal was not successful.

Employment Judge Postle

Date: 18 – 03 - 2024

Sent to the parties on: 25 / 03 / 2024
T Cadman

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For the Tribunal Office.

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