



EMPLOYMENT TRIBUNALS

Claimant

Mrs L Alvares

v

Respondent

Capital City College Group

Heard at: London Central by CVP
Before: Employment Judge Anderson

On: 4, 5, 6, 7, 10, 11, 12 June 2024

Appearances

For the claimant: In person

For the respondent: J Duane (counsel)

JUDGMENT

1. The claimant's claims of constructive unfair dismissal, pregnancy and maternity discrimination, sex discrimination, victimisation and a failure to provide a written statement of terms and conditions are dismissed.

REASONS

Background

1. The claimant was employed by the respondent, a group of colleges from 14 October 2019, most recently as a chemistry lecturer and curriculum manager. She claims that she was discriminated against on the grounds of her pregnancy and maternity leave during the period March 2022 to July 2023. She claims to have been discriminated against on the grounds of sex in March 2023 and victimised from March to May 2023. The claimant claims that she had no choice but to resign because of this treatment on 23 May 2023. The claimant also claims that the respondent failed to provide her with a contract of employment for her role as curriculum manager. The respondent denies that it discriminated against the respondent on any ground and says that she resigned on 23 May 2023 having found an alternative job. It states that the claimant was provided with an initial contract of employment and statements of changes of terms when changes occurred.

The Hearing

2. The parties filed a joint bundle of 565 pages (paginated bundle). The claimant filed four witness statements. These were the claimant's witness statement, a statement from Mumtaz Patel, a statement from Jason Alvares and a statement from Janarthani Kaminski. The claimant attended the hearing and

gave evidence on oath. Ms Patel did not attend, and her witness statement was unsigned. Mr Alvares was not called, as the respondent did not contest his statement. Ms Kaminski's statement concerned remedy. As liability was determined first, and the claim was dismissed, Ms Kaminski was not called.

3. The respondent filed witness statements from Sarah Ramsay, Catherine Quinn, Adam Beral, Matteus Wojtyniak, Emma King and Hardeep Sokhi. All witnesses attended and gave evidence on oath.
4. The tribunal also received an opening note from the respondent, along with a cast list. Both parties filed written closing submissions.

The Issues

5. The parties agreed a list of issues at a hearing before EJ Street on 10 October 2023. That list is set out below and the numbering is used when referring to the allegations in the reasons section of this judgment. The tribunal has omitted the issues concerning remedy but retained the heading in order to maintain the numbering.

1. Time limits – Jurisdiction

1.1 Were the discrimination complaints made within the time limit in section 123 of the Equality Act 2010? The Tribunal will decide:

1.1.1 Was the claim made to the Tribunal within three months (plus early conciliation extension) of all of the acts to which the complaint relates?

1.1.2 If not, was there conduct extending over a period?

1.1.3 If so, was the claim made to the Tribunal within three months (plus early conciliation extension) of the end of that period?

1.1.4 If not, were the claims made within a further period that the Tribunal thinks is just and equitable? The Tribunal will decide:

1.1.4.1 Why were the complaints not made to the Tribunal in time?

1.1.4.2 In any event, is it just and equitable in all the circumstances to extend time?

2. Constructive Unfair dismissal

2.1 Was the Claimant dismissed? In order to determine this the tribunal will have to decide the following questions

2.2 Did the Respondent do the following things:

i. July 2022, failing to consult with the Claimant in respect of reorganisation in the science area

ii. July 2022, failing to give the Claimant the same opportunity as her other 3 colleagues

iii. July 2022, failing to inform the Claimant of the course she oversaw being externally advertised as a full-time permanent role with a different title;

iv. September 2022, cronyism - hiring Daniella Plummer as a curriculum manager for Science Academy;

v. July 2022, February 2023, failing to communicate effectively during maternity leave;

vi. 09 March 2023, inappropriate comments by Catherine Quinn:

a. "you want to have it all"

b. "Your role as a chemistry lecturer and mother."

c. "So you will be returning as a 0.2 FTE curriculum manager and 0.8 FTE lecturer",

d. "It will be too much for Daniella to handle Level 2 Applied Science, Level 3 Applied Science, and T Levels, so you should do Level 2 Applied Science";

vii. 22 March 2023, inappropriate comment by Catherine Quinn regarding "redeployment" "we don't have to consult with you";

viii. July 2022 - April 2023, giving the Claimant misleading information about career advancement by Adam Beral and Catherine Quinn;

- ix. March 2023 - April 2023, contradictory and false statements about job opportunities;
- x. March 2023 - April 2023, inconsistent agreements about KIT days Catherine Quinn;
- xi. Removing the Claimant from college management organogram;
- xii. November 2020 - May 2023, not providing the Claimant with a curriculum leader contract
- xiii. 21 April 2023, demeaning comment by Matt Wojtyniak - "You spinned everything";
- xiv. 21 April 2023, demeaning comment by Matt Wojtyniak - "If you were more flexible, we would want to help you more";
- xv. April 2023, behaving in a high handed manner in response to the Claimant's complaint about being discriminated by Matt Wojtyniak, Adam Beral and Catherine Quinn;
- xvi. April 2023, institutional denial of any wrongdoings and lack of willingness to rectify their mistake by the Respondent;
- xvii. Demeaning comment by Matt Wojtyniak - "Did I push your baby down?";
- xviii. April 2023, being ganged up by three members of staff who are above the Claimant's grade(Catherine Quinn, Adam Beral, & Matt Wojtyniak);
- xix. 24 April 2023, being laughed at by Matt Wojtyniak and Catherine Quinn when the Claimant expressed her concerns;
- xx. April 2023, failure to timely disclose a second opportunity to increase the Claimant's 0.3 FTE curriculum leader position to 1.0 FTE, in response to her discrimination complaint;
- xxi. May 2023, hiring someone less qualified than the Claimant as a curriculum manager for Access to HE who is also part of Catherine Quinn's friendship group.

2.3 Did that breach the implied term of trust and confidence? The Tribunal will need to decide:

- 2.3.1. whether the Respondent behaved in a way that was calculated or likely to destroy or seriously damage the trust and confidence between the Claimant and the Respondent; and
- 2.3.1. whether it had reasonable and proper cause for doing so.

2.4 Did the Claimant resign in response to the breach? The Tribunal will need to decide whether the breach of contract was a reason for the Claimant 's resignation.

2.5 Did the Claimant affirm the contract before resigning? The Tribunal will need to decide whether the Claimant 's words or actions showed that they chose to keep the contract alive even after the breach.

2.6 If the Claimant was dismissed, what was the reason or principal reason for dismissal - i.e. what was the reason for the breach of contract?

2.7 Was it a potentially fair reason?

2.8 Did the Respondent act reasonably or unreasonably in all the circumstances, including the Respondent's size and administrative resources, in treating that reason as a sufficient reason to dismiss the Claimant?

2.9 The Tribunal's determination whether the dismissal was fair or unfair must be in accordance with equity and the substantial merits of the case.

3. Remedy for unfair dismissal

4. Direct sex discrimination (Equality Act 2010 section 13)

4.1 Did the Respondent do the following things: i. 09 March 2023, inappropriate comment by Catherine Quinn, "you want to have it all" when the Claimant expressed her desire to grow professionally as a mother;

4.2 Did the Respondent's treatment amount to a detriment? That is to say - was that less favourable treatment?

4.3 The Claimant relies on a hypothetical comparator. This means that the Tribunal will decide whether they were treated worse than someone else would have been treated.

4.4 If so, was it because of sex?

5. Pregnancy and Maternity Discrimination (Equality Act 2010 section 18)

NOTE: The Claimant notified the Respondent about her pregnancy in January 2022 and the school summer break started on 9 July 2022. The Claimant had her baby on 20 August 2022. The Claimant started her maternity leave on ?? and returned to work after maternity leave on ?

- 5.1 Did the Respondent treat the Claimant unfavourably by doing the following things:
- i. March 2022 - May 2022, overloading the Claimant with work
 - ii. 22 March 2022, asking the Claimant to work from home whilst signed off sick;
 - iii. 23 March 2022, Matt Wojtyniak asking "is pregnancy a disease?";
 - iv. 19 April 2022, Sarah Ramsay commenting -"are you sure want a second child, you don't seem to be handling your pregnancy well";
 - v. 19 April 2022, Sarah Ramsay threatening with forced early maternity leave if the Claimant's absences persisted;
 - vi. Not providing the Claimant with a quiet space to rest, thus subjecting her to humiliation by Matt Wojtyniak;
 - vii. July 2022, failing to consult with the Claimant in respect of reorganisation in the science area;
 - viii. July 2022, failing to give the Claimant the same opportunity as her other 3 colleagues;
 - ix. July 2022, failing to inform the Claimant of the course she oversaw being externally advertised as a full-time permanent role with a different title;
 - x. July 2022, February 2023, failing to communicate effectively during maternity leave;
 - xi. 09 March 2023, inappropriate comments by Catherine Quinn:
 - a. "you want to have it all"
 - b. "your role as a Chemistry Lecturer and mother."
 - c. "so you will be returning as a 0.2 FTE curriculum manager and 0.8 FTE lecturer",
 - d. "It will be too much for Daniella to handle Level 2 Applied Science, Level 3 Applied Science, and T Levels, so you should do Level 2 Applied Science";
 - xii. 22 March 2023, inappropriate comment by Catherine Quinn regarding "redeployment" "we don't have to consult with you";
 - xiii. July 2022 - April 2023, giving the Claimant misleading information about career advancement by Adam Beral and Catherine Quinn;
 - xiv. March 2023 - April 2023, contradictory and false statements about job opportunities;
 - xv. March 2023 - April 2023, inconsistent agreements about KIT days by Catherine Quinn;
 - xvi. Removing the Claimant from college management organogram;
 - xvii. 21 April 2023, demeaning comment by Matt Wojtyniak: "You spinned everything";
 - xviii. 21 April 2023, demeaning comment by Matt Wojtyniak: "If you were more flexible, we would want to help you more";
 - xix. April 2023, behaving in a high handed manner in response to the Claimant's complaint about being discriminated by Matt Wojtyniak, Adam Beral & Catherine Quinn;
 - xx. April 2023, institutional denial of any wrongdoings and lack of willingness to rectify their mistake by the respondent;
 - xxi. 24 April 2023, Matt Wojtyniak hurtful comment - "Did I push your baby down?"
 - xxii. April 2023, being ganged up by three members of staff who are above the Claimant's grade, Catherine Quinn, Adam Beral& Matt Wojtyniak ;
 - xxiii. 24 April 2023, being laughed at by Matt Wojtyniak and Catherine Quinn when the Claimant expressed her concerns;

5.2 Did any of the unfavourable treatment take place in a protected period?

5.3 If not did it implement a decision taken in the protected period?

5.4 Was the unfavourable treatment because of the pregnancy?

5.5 Was the unfavourable treatment because of illness suffered as a result of the pregnancy?

5.6 Was any of the unfavourable treatment because the Claimant was on compulsory maternity leave / the Claimant was exercising or seeking to exercise, or had exercised or sought to exercise, the right to ordinary or additional maternity leave?

6. Victimisation (Equality Act 2010 section 27)

6.1 Did the Claimant do a protected act as follows:

I. On 31st March 2023 the Claimant raised a concern about being sidelined because of her pregnancy during restructure/reorganization in July 2022

II. On 14th April 2023, the Claimant raised the same concern with HR

6.2 Did the Respondent do the following things:

i. Changed the terms of an agreed working arrangement by initially agreeing to payment the full KIT day for attending meetings. Then after the Claimant had done the protected

act, the agreement was changed so that she was expected to attend the full (09:00 am to 17:00 pm) in order to be paid for KIT.

- ii. lack of willingness to rectify their mistake and support by the Respondent;
- iii. 24 April 2023, false information about available job opportunities
- iv. April 2023, failure to timely disclose a second opportunity to increase the Claimant's 0.3 FTE curriculum leader position to 1.0 FTE, in response to her discrimination complaint;
- v. May 2023, hiring someone less qualified than the Claimant as a curriculum manager for Access to HE who is also part of Catherine Quinn's friendship group

6.3 By doing so, did it subject the Claimant to detriment?

6.4 If so, was it because the Claimant did a protected act?

6.5 Was it because the Respondent believed the Claimant had done, or might do, a protected act?

7. Remedy for discrimination or victimisation

8 Failure to provide a statement of terms and conditions of employment.

8.1 When these proceedings were begun, was the Respondent in breach of its duty to give the Claimant a written statement of employment particulars or of a change to those particulars?

8.2 If the claim succeeds, are there exceptional circumstances that would make it unjust or inequitable to make the minimum award of two weeks' pay under section 38 of the Employment Act 2002? If not, the Tribunal must award two weeks' pay and may award four weeks' pay.

8.3 Would it be just and equitable to award four weeks' pay?

Findings of Fact

6. The claimant was employed by the respondent, a group of further education colleges, from 14 October 2019 as a chemistry lecturer. The claimant's role changed over time and when her employment ended, she held a role whereby she was a chemistry lecturer for 0.7 of her working hours and a curriculum manager for 0.3 of her working hours. The claimant's employment ended on 22 August 2023 following her resignation which was notified to the respondent on 23 May 2023 by way of a letter dated 22 May 2023.
7. The claimant was provided with an employment contract for the position of chemistry lecturer on 30 September 2019. On 21 July 2020 she was provided with a letter confirming her appointment as a full time curriculum leader and setting out the changes to her contract. The email covering that statement of changes included a line from the HR officer saying that she was in the process of creating a contract for the position of curriculum leader. The claimant followed this up on 5 October 2020 noting she had not received the contract.
8. On 22 February 2021 a further letter setting out changes to the claimant's contract was provided. This reflected the change from 1.0 curriculum leader to 0.3 curriculum leader and 0.7 chemistry lecturer. The letter states '*The remainder of your terms and conditions of employment with Capital City College Group remain unchanged.*'
9. In January or February 2022 the claimant notified her line manager Sasha Murmann (Head of School- STEM) that she was pregnant.
10. The claimant's evidence is that Ms Murmann agreed as part of a pregnancy risk assessment that the claimant could use a small room, room 101, as a dedicated

space to rest when needed. The respondent did not challenge this evidence and it is accepted by the tribunal.

11. On or around 11 February 2022 Ms Murmann left the business and Sarah Ramsay was appointed as temporary Head of School while the permanent appointee, Catherine Quinn, worked her notice.
12. On 1 March 2022 Ms Ramsay conducted a New/Expectant Mother's Risk Assessment with the claimant. On the assessment form the following matters are noted:
 - a. that the claimant should sit down when she is tired,
 - b. that the claimant is a bit more forgetful so should make notes and plan ahead,
 - c. the claimant should find someone else to deal with organic chemicals (this was an annotation by the claimant),
 - d. the claimant has a two hour commute each way,
 - e. the claimant was stressed due to staffing, and it is noted that an alternative staff member should be looked for,
 - f. that the claimant has anxiety, and
 - g. that there are '*no clear concerns, some concern regarding later in the pregnancy and stress and travel. Will review monthly to ensure we implement interventions as required.*'
13. It is the claimant's position that she was overloaded with work from March 2022 to May 2022 and that she raised her workload with Ms Ramsay in this meeting but despite this Ms Ramsay did not record it. Ms Ramsay said that workload was not mentioned. The tribunal finds that the information recorded on the risk assessment form shows that the claimant was capable of raising matters over which she was concerned and after the meeting added a comment where she felt something had not been recorded properly (re organic chemical use). It concludes from this that the claimant did not say in that meeting that she was overloaded with work.
14. On 14 March 2022 the claimant was asked by Ms Ramsay to carry out the first day induction of two new employees. These employees were taken on in part to address the issue raised at the assessment about staff shortages. Later that evening, after work, the claimant became unwell and went to hospital. She was discharged the next day and returned to work on 18 March 2022.
15. On 15 March 2022 the claimant emailed Ms Ramsay saying her anxiety levels were high and the hospital said she needed support at work. She requested a referral to OH and this was actioned immediately by Ms Ramsay, though the OH meeting did not take place until 27 April 2022.
16. On 22 March 2022 the claimant was too ill to come to work due to morning sickness and asked Ms Ramsay to cancel her lesson. She submitted a fit note the same day signing her off with anxiety disorder for two weeks. Later in the day at 2pm Ms Ramsay emailed the claimant as follows, saying she had an idea about work the claimant could do from home:

Hi Lalu

I'm not sure if you will see this e-mail I wonder if it might be OK for me to call you?

I have an idea that might suit you better than being off sick. Absolutely no problem if it's not something you're interested in, but it might be something you'd enjoy.

17. The claimant responded within 15 minutes saying she had tried to call Ms Ramsay and inviting her to call her. After further consideration the claimant sent a second email:

I have had a think about the email.

My doctor signed me off sick as I am not well enough to work. I really need this restpate to get better. This time off is detrimental to my health and for my pregnancy.

I would like this to be respected as I don't want to feel pressured to work when I really need the rest.

18. Ms Ramsay replied :

Absolutely no problem at all.

Take care and rest up.

Call me if you need me.

19. Ten minutes later Ms Ramsay emailed the claimant again, copying in Mat Wojtyniak (Assistant Principal) and Alexandra Meybaum:

Hi Lalu,

I absolutely understand that you need to rest and I would urge you to do so. Keep your feet up and spend some quiet time reading.

As you've only just become sick today, can I just ask one question please. Can you point me in the direction of where the folder is with the work for the SV that Emma needs? Do you happen to know?

Take care

20. It is the claimant's case that the suggestion from Ms Ramsay that she could do some work from home and asking her where the folder was shows that the respondent asked her to work from home when she was sick. Ms Ramsay said in oral evidence that the claimant had voiced concern about her students suffering through her absence and it was for this reason she planned to make the suggestion, which was to do some marking at home, but she did not pursue it when the claimant said she was not interested in it. In response to the claimant's question as to why the second email (asking about the folder) included Matt Wojtyniak and Alexandra Meybaum, she said that this was simply a 'reply all'. The claimant's prior email saying she was not interested in working from home was copied to these two people.

21. The tribunal finds that the respondent did not ask the claimant to work from home. Ms Ramsay suggested that she could discuss work if she wanted to but expressed her support when the claimant said she was not interested. The tribunal does not accept that asking someone if they know where a folder is, is

asking them to do work. The claimant talked in oral evidence about how much work was required on the folder. The respondent did not ask her to work on the folder, it asked where it was.

22. The claimant says she had a meeting with Matt Wojtyniak, Assistant Principal, on 23 March 2022 and in this conversation, he asked her '*is pregnancy a disease*' and she asked him not to allow other people to use room 101 as she needed it. Mr Wojtyniak said in evidence that he did not remember the meeting, that room 101 was at times allocated to others, and he denied that he would make the comment claimed. Mr Wojtyniak did not deny that the conversation took place, he said only that he did not recall it. The tribunal finds that the claimant spoke to Mr Wojtyniak about matters relating to her pregnancy on 23 March 2022.
23. On the comment, Mr Wojtyniak said he could not see a context in which he would use words like that in any circumstances. The claimant raised no complaint about this alleged comment and continued to look to Mr Wojtyniak for support when she returned from maternity leave the following year. The tribunal found Mr Wojtyniak to be a credible witness and an experienced manager. The claimant could and did raise issues with managers where she thought she was being treated unfairly but did not complain about this. She said she decided just to let it pass and move on. On balance the tribunal accepts Mr Wojtyniak's evidence this comment was not made.
24. Ms Ramsay's evidence was that she discussed with Mr Wojtyniak the claimant's request to be allocated room 101 and he agreed to it so that the claimant had '*full access to this office all to herself.*' It was not contested that Sasha Murmann had previously allocated the room to the claimant for rest, and the tribunal finds that the fact she asked for it again is evidence that she was not receiving sole access. This is borne out in Mr Wojtyniak's evidence that the room was allocated to others at times and as this included exams, this would have been after Ms Ramsay, in consultation with Mr Wojtyniak, had agreed that it was for the claimant's sole use.
25. The claimant said that she used a toilet cubicle in the student toilets, another abandoned room and a place where there were old PE mats. She said that she could not use the staff room as she would be inundated with queries from staff she supervised. The tribunal accepts this evidence.
26. On 15 April 2022 the claimant advised Ms Ramsay that she would be on sick leave until after her OH appointment on 27 April 2022 and asked to be stationed in room 101 as the 9th floor was too hot. She also asked about back support.
27. On 18 April she asked if a forthcoming curriculum leader's meeting could also be used for the purpose of her appraisal as she wanted to leave early on the day the appraisal was rescheduled. Ms Ramsay did not agree to combining the claimant's appraisal with her weekly curriculum leader meeting. She said in evidence that this is a separate meeting, held once a year and should not form part of a regular weekly meeting, but did agree to re-arrange the meeting.

28. On 19 April 2022 the claimant met with Ms Ramsay. It is the claimant's case that in this meeting Ms Ramsay threatened the claimant with forced early maternity leave if her absence persisted and made the comment 'are you sure you want a second child, you don't seem to be handling your pregnancy well.' Ms Ramsay denies threatening the claimant with early maternity leave. Her evidence was that she was concerned about the claimant and said she had the option of starting her leave early and mentioned that employers could start maternity leave early. Ms Ramsay denies making a comment about a second child. She said that she did not know this was the claimant's second child, and that she would never have said such a thing. The claimant suggested in oral evidence that Ms Ramsay was referring to a possible future second child.

29. The claimant emailed Ms Ramsay later the same day. She said:

With regards to the concerns you have raised regarding my absence related to my pregnancy – you mentioned that this may results in the college forcing me to take early maternity leave.

Would you be able to let me know what the exact college policy is on this matter?

30. The claimant did not refer to the comment she alleges Ms Ramsay made about a second child. Ms Ramsay replied as follows:

As mentioned in the meeting I have spoken to HR today regarding a number of items for multiple staff. What is most important is that we support you enough that you are not in need of taking time off sick. I'm not referring to any college policy, I was referring to this being something any workplace can action. This is not in any way being discussed or thought about at the moment so please do not become concerned unduly.

31. Ms Ramsay contacted HR that day about the claimant and two other staff who were off on long term sickness absence asking if she could speak to the OH doctor. She was told that she could not. The claimant put it to Ms Ramsay on cross examination that she was trying to influence the outcome of the OH report. Ms Ramsay said that she was trying to ensure the doctor answered the questions that were relevant to facilitating a return to work. She said that in other places she had worked there was a referral form in which she could outline her questions, whereas it was the respondent's practice for HR to make the referral.

32. The tribunal finds that Ms Ramsay did raise that the claimant could take early maternity leave and that in some circumstances an employer could insist that maternity leave started where an employee is on sick leave, but it does not find that Ms Ramsay threatened the claimant. The claimant did not use that word in her email to Ms Ramsay and the tribunal finds that it is not credible that Ms Ramsay, who both before and after this meeting continued to make adjustments at the claimant's request would have made such a threat. Likewise, the tribunal finds that Ms Ramsay did not make a comment about the claimant being unable to manage a second child. Ms Ramsay was a temporary member of staff who did not know the claimant well, she is an experienced manager,

and teacher and the tribunal does not find it credible that she would have made such a statement. There is no indication from the written correspondence between the two that Ms Ramsay was other than supportive of the claimant.

33. In her email of 19 April 2022 Ms Ramsay goes on to acknowledge that the risk assessment had been updated, the claimant can work from home one day a week, she has chased facilities about back support and that the claimant can relocate to Room 101 if her 9th floor workspace is too hot.
34. On 21 April the claimant asked to be excused from an open evening which would run from 5pm to 7pm. Ms Ramsay agreed that she could miss it if there was cover.
35. On 27 April 2022 the claimant was assessed by occupational health. In the report the OH advisor notes that the claimant reported that her workload is affecting her physically and mentally. A list of recommendations was made which included an assessment of her workload, a reduction in hours after the exams, regular breaks, and a reduced requirement to work long days. No evidence was presented to the tribunal about whether this assessment was discussed between Ms Ramsay and the claimant.
36. The claimant set out in her witness statement that work was hectic from 27 April until 20 May 2022. The tribunal accepts that the exam period in a college would be a busy time.
37. On 6 May the claimant requested that her hours be reduced after the exam period as she was overwhelmed with work.
38. The claimant said that Ms Ramsay had overloaded her with work by scheduling additional meetings. The first of these being an appraisal meeting which is referred to above. The next was a three hour timetabling meeting over two days. Ms Ramsay explained in oral evidence that this would involve the claimant sitting with her in front of a computer while she went through the timetables, that she was new to the college and wanted to make sure that when she left no-one was going to be lumbered with courses they did not want to teach. Also, that the meetings could have been shorter, and breaks could have been facilitated. Her email to all of the curriculum leaders on 10 May was:

From tomorrow I will be working on TT's.

As I am not familiar with how you have planned previously, I'd love your input with these.

Can we please meet for an extended period this week, if you have time?

I have two weeks to complete these, so time is very tight.

I need to cross reference:

Rooms

Vocational / M&E / Tutorial / WEX / Enrichment

Staff

I will print out a million blank timetables for us to make a start from.

Please send me your availability.

39. The claimant's response was that she was happy to help out.
40. Ms Ramsay left the respondent's employment on 24 May 2022. The claimant, in an email thanked Ms Ramsay as follows:
- Just wanted to thank you for all your hard work and support.
So sorry, I missed your last day. Will definitely keep in touch.
It has been a pleasure working with you. I wish you all the best for the future and enjoy your short break in Tunisia.
Have a safe flight tonight, 😊.
Best Wishes*
41. Catherine Quinn then took up the permanent position of Head of School.
42. The tribunal finds that there is no evidence that the respondent overloaded the claimant with work during this period or that the claimant asked for her workload to be reduced between March and May 2022.
43. In June 2022 Adam Beral (Deputy Director for the Centre for Applied Science (CAS)) held a meeting with curriculum leaders. In this meeting he put forward his plans to increase the number of curriculum leaders in CAS. His undisputed evidence was that shortly after he had been employed in April four of the eight curriculum leaders (amounting to 6.0 full time equivalent) had resigned and this was a good opportunity to look at the management posts and what they were responsible for where the college had grown substantially in terms of student numbers. Curriculum leaders were encouraged to comment on the proposals and contact Mr Beral with any questions. The claimant made no comments and did not contact Mr Beral,
44. Mr Beral's view was that there was a requirement for 7.3 curriculum leaders. He also planned a re-organisation of responsibilities, a change of name of the role from curriculum leader to curriculum manager, and a pay rise. As he was asking for an increase in budget when the budget had already been set, he prepared a presentation for the respondent's senior management team, and it was part of this that he shared with the claimant and her curriculum leader colleagues in June 2022.
45. In the presentation, the current state of affairs is shown in a chart with includes the claimant's 0.3 curriculum leader role and it is noted that she will be going on maternity leave imminently. On the revised chart the role of Science Academy curriculum manager is shown as full time and vacant. The next page shows that applied science is the curriculum area covered by Science Academy. The claimant was curriculum leader for level 2 applied science.
46. For reasons which relate to a later allegation by the claimant, the parties in this hearing have used a variety of words to describe this exercise, including, reshuffle, re-organisation, restructure and redeployment. The tribunal accepts the respondent's evidence that this was not a restructure such that there would be redundancies or redeployment whereby a formal consultation with employees and/or a trade union would be required. References to consultation

below are not to such a formal consultation, but in the context of updating those working in the roles impacted by this exercise. There were no redundancies and all of those who were curriculum leaders (now renamed managers) and wished to continue to be so, did continue to be so. For clarity the tribunal will refer to the exercise as a re-organisation from here on.

47. On 8 July, which was the claimant's last day at work before she commenced a period of leave and then her maternity leave, Mr Beral held an all staff briefing in which the reorganisation was set out to all staff. Mr Beral said that there would be an advertisement for the vacancy of curriculum manager for the Science Academy and encouraged staff to apply and circulate the advert to others.
48. The claimant was at both of these meetings. She had access to the information which showed that applied science came under the Science Academy and the proposal was that there be a full time curriculum manager for the Science Academy. She was asked for her comments on the proposals. The tribunal finds that the claimant was fully informed and consulted about the re-organisation.
49. At the time of the re-organisation there were four curriculum managers, four having resigned. Emma Wong worked 0.8 FTE managing the courses level 3 applied science and Access to Medicine. After the re-organisation her responsibility was the Medical Academy – so she was no longer managing level 3 applied science. There was a point raised by the claimant about Ms Wong's fraction increasing from 0.7 FTE to 0.8 FTE. Mr Beral's evidence was that Ms Wong has always been 0.8 FTE. She had confirmed this to him, and that this was simply an error in the HR records which he corrected in his revised management chart. The claimant raised in her cross examination of Adam Beral that Ms Wong was a 0.7 C leader and 0.1 lecturer, but the witness had no knowledge of this and this had not been raised before that cross examination. No documentary evidence was provided, and the tribunal has had no regard to this point. The tribunal accepts the respondent's evidence and accepts that effectively Ms Wong's role as 0.8 FTE curriculum manager did not change. Saeesh Shirsat was a full time curriculum manager and continued to be so. Noah Lewis was a 0.3 FTE curriculum manager and became a full time curriculum manager of his previous subject area and another area – Forensic and Criminology. The curriculum manager of that area had resigned. Mr Beral's uncontested evidence was that Mr Lewis and Mr Lewis's line manager had approached him before he drafted the re-organisation plan to suggest that Mr Lewis took on the role of curriculum manager of Forensics and Criminology. As noted above the claimant did not comment on the proposals, nor did she apply for the job as curriculum manager for Science Academy, and she did not raise with Mr Beral at this time either that she was interested in increasing her management fraction or that she believed she should have been asked directly if she wanted to do so. In terms of opportunities afforded to the curriculum managers the tribunal finds that the claimant was not treated differently to the other managers.
50. The full time role of curriculum manager of the Science Academy which covered all applied science was advertised in July 2022 with a closing date of 20 July

2022. The claimant refers to this as an advert for '*the course she oversaw being externally advertised as a full time permanent role with a different title.*' The tribunal does not accept this. The role advertised was to cover all of applied science and though the title was of Science Academy, this was something the claimant had been advised of and which she knew comprised all of applied science.

51. Daniella Plummer was appointed as the curriculum manager for the Science Academy in September 2022. Ms Plummer was a friend of Ms Quinn. They had worked together a number of times in the past. The respondent's recruitment policy has the following paragraph under the heading of 'Interview panel':

In the instance that a panel member has a close personal or family relationship with a candidate, they must disclose this to the recruiting manager and not take part in the selection process.

52. Ms Quinn was a member of the recruitment panel, and the claimant says that this is evidence of cronyism. Ms Quinn's evidence was that she knows Ms Plummer, but they are not close and that she declared her relationship to the other panel members (Mr Beral and an HR colleague) who decided that it was acceptable for her to continue as a panel member for the interview. Mr Beral said that neither he nor Kishan Harayan from HR saw the relationship as an issue and that the interview process was rigorous. Ms Plummer scored highest of 19 candidates and was therefore recruited. The claimant's case is that Ms Plummer's and Ms Quinn's social media pages evidence that they have a close relationship.

53. The tribunal finds that where the relationship was disclosed to the other panel members, one of whom was a senior manager and the other an HR professional not part of the CAS academic staff, there is no evidence of either cronyism or an improper interview process. The evidence from Mr Beral was that it was common practice to encourage staff to share job adverts with their acquaintances.

54. The claimant claims that communication with her, by the respondent, during July 2022 to February 2023 was not effective. The respondent's policy on maternity leave includes the following paragraph:

4.7 Contact during maternity leave

We will make reasonable contact with you during your maternity leave as it is important that you are kept informed of any developments at work. We expect you to maintain reasonable contact with your manager during your maternity leave to advise of matters such as a change of address or bank details.

For avoidance of doubt all organisational communication will be sent to your company email address which will remain available during your maternity leave unless you make alternative arrangements with your line manager.

55. Mr Wojtyniak's evidence was that he sent weekly or fortnightly information emails to staff on their work email account. This evidence was not disputed by the claimant.

56. On 25 July 2022, the claimant, having seen the advertisement for curriculum managers, emailed Mr Beral as follows:

Hope you are well.

I have noticed the new role as CL for Science Academy has been advertised for Level 2 and Level 3 Applied Science.

It's a permanent role.

What will happen to my role as a level 2 CL when I return? Is that being made redundant?

57. Mr Beral replied the same day:

Please don't worry – you will be able to return to exactly the same role when you return from maternity.

There will be further growth in management capacity here at CAS in a year's time, and I have accounted for you in those calculations.

Hope you are doing well,

58. The claimant's response on 10 August 2022 was:

Sorry for the late reply.

Glad to hear, 😊.

Speak to you guys soon

59. The claimant's son was born on 20 August 2022. In September 2022 the claimant and Ms Quinn had contact via WhatsApp about the birth of her baby and a gift Ms Quinn had sent the claimant.

60. On 3 October Matt Wojtyniak emailed a number of staff members, including the claimant, about completing a safeguarding module. The claimant asked Ms Quinn by email if this applied to her, and Ms Quinn replied that it did not.

61. The claimant was in touch with the team on WhatsApp in January 2023 regarding other gifts sent to her.

62. On 28 February 2023 Ms Quinn contacted the claimant to ask if they could schedule a meeting for March 2023.

63. The claimant's case is that the respondent failed to communicate effectively during this period meaning that she was unaware that Daniella Plummer had been appointed to the role of curriculum manager for the Science Academy and that she missed an opportunity to be part of the T level programme.

64. The tribunal was not provided with any evidence about what contact had been agreed before the claimant commenced her maternity leave but notes that it is not raised by the claimant during the period July 2022 to February 2023 that she thinks the level of communication is deficient or asks for a more efficient approach. She had access to Mr Wojtyniak's briefings and when she had a query about work on 3 October 2022, she contacted Ms Quinn who responded immediately.

65. The claimant was aware that a full time curriculum manager for the Science Academy was being recruited as she had been advised of this in the June and July 2022 meetings and had seen the job advertisement. The tribunal finds that the respondent not contacting the claimant separately whilst on maternity leave to advise of the name of the person recruited does not constitute a failure of communication.
66. The claimant was aware that T levels were likely to be introduced in September 2023. This was referenced in the reorganisation documents. The tribunal does not accept that there was any failure of communication during the period July 2022 to February 2023 which led to the claimant missing an opportunity to be part of the T level programme.
67. The claimant and Ms Quinn met on 9 March 2022 by Teams. It is the claimant's case that Ms Quinn made a number of inappropriate and discriminatory comments during that meeting. It is agreed between the two that the meeting involved a discussion on their own working mothers and their mutual respect for them, as well as the difficulties the claimant would face as a new mother with a long commute on returning to work. It also included a discussion on the work to be allocated to the claimant on return. Ms Quinn made two proposals for the curriculum leader fraction of the claimant's role, one of which included management of level 2 applied science courses. The other was to manage level 1 and GCSE home hub.
68. The claimant alleges that the Ms Quinn said '*you want to have it all*' in a negative way, i.e. that the claimant could not expect to have it all or that she was asking too much. Ms Quinn does not accept this wording but states that she may have used a phrase such as '*you can do both*' or '*you can have it all*' in the context of their discussion about their mothers.
69. The claimant takes issue with Ms Quinn using the phrase '*your role as a chemistry lecturer and mother*'. She says this is evidence that Ms Quinn did not recognise her management role. Ms Quinn's evidence was that she could not remember using the phrase but accepts she could have said something like that when discussing the claimant's concerns about her commute and early teaching responsibilities.
70. The claimant says that it was inappropriate of Ms Quinn to state that her fractional split was 0.2 management and 0.8 lecturer when it was actually a 0.3/0.7 split. Ms Quinn said that she made a mistake and rectified it as soon as this was pointed out to her.
71. The claimant claims that Ms Quinn said '*It will be too much for Daniella to handle Level 2 Applied Science, Level 3 Applied Science and T levels, so you should do Level 2 Applied Science.*' and this was disrespectful and showed favouritism to Ms Plummer. Ms Quinn denies making this comment and states that Ms Plummer was managing level 2 and level 3 while the claimant was on maternity leave.
72. The tribunal finds that Ms Quinn did not make any inappropriate comments during the meeting of 9 March 2022. In the context of the discussion about

mothers the tribunal finds that Ms Quinn's explanation is preferable and makes more sense. The tribunal does not find that it would be inappropriate to use the term chemistry lecturer when the claimant was discussing concerns about her work responsibilities, when she was predominantly a chemistry lecturer, and it finds that if any comment was made about the reorganisation of management responsibilities on the claimant's return this was wholly appropriate, particularly where the claimant was looking to take back her level 2 applied science management work. The tribunal finds that Ms Quinn made a simple mistake when discussing the claimant's fractions, which was of little consequence and was immediately rectified.

73. On 17 March 2023 the claimant emailed Ms Quinn, copying in Adam Beral. She asked for clarification of a number of points as follows:

- a. A flexible arrangement whereby student contact time was from 9.30-4.30
- b. A phased return
- c. A list of the units she would like to teach
- d. A limit on the different units she would teach and cutting down on new unit planning time,
- e. Use of the same desk as she had before maternity leave
- f. A list of staff she would be responsible for on return
- g. Clarification of the absence policies
- h. Confirmation of how she fits into the new structure following the restructure [claimant's word]
- i. Asking why she had been changed from a 0.3/0.7 fraction to a 0.2/0.8 fraction
- j. Stating that she had expected to be responsible for 3 level 2 courses and now if she was responsible for 2 level 2 courses and a level 1 course could Ms Quinn confirm that

74. Ms Quinn was on holiday. She responded on her return on 21 March 2023 confirming that she had made an error regarding the fraction and invited the claimant to a meeting to discuss the points raised.

75. Ms Quinn and the claimant met on 22 March 2022. Mr Beral also joined the meeting for a time and said to the claimant that there had been no restructure, but her role was secure, and she had always been accounted for in the respondent's plans. The claimant says that Ms Quinn said in that meeting '*we don't have to consult with you*', which she says was an inappropriate comment. Ms Quinn said that the matter of whether there had been a restructure, or a redistribution of responsibilities, was discussed but she did not say '*we don't have to consult you*'. Mr Beral says the matter was discussed while he was at the meeting, but he did not hear Ms Quinn make that comment.

76. The tribunal finds that discussion about the re-organisation took place and that it is possible that a comment may have been made in the context of that conversation about there being no necessity to consult staff in a re-organisation of this nature, but it finds that Ms Quinn did not make an inappropriate comment.

If she had made that comment, it is the tribunal's view that it would not have been inappropriate but rather a statement of fact as she saw it.

77. It was also raised by the claimant at that meeting that she was interested in increasing her management fraction. Both Ms Quinn and Mr Beral say that Mr Beral's response was that this could be looked at on her return from maternity leave if there was a need to increase management capacity.
78. After the meeting the claimant sent a further email on 27 March 2023 to Ms Quinn asking for more information about the two curriculum manager proposals for her return and said '*I expressed my interest in exploring the opportunity to become a full time CM. Were you able to speak to Adam about this?*'
79. Ms Quinn responded on 28 March by way of providing answers in red text under the claimant's queries. She replied to both the email of 17 March 2023 and 27 March 2023 at the same time.
80. For the 17 March email she responded to the first seven queries in the affirmative or said she would do her best. She said she could not confirm who the managees would be yet but could provide an idea, which she did.
81. In response to the claimant's final three queries, she said that there had been no restructure but a redistribution of responsibilities, she hoped the claimant agreed with rationale for introducing a level 1 science course and set out the two proposed management plans they had discussed at the meeting. She welcomed the claimant's guidance and thoughts in the implementation of the level 1 programme. She confirmed that she had made an error over the fractions.
82. On the full time curriculum manager point she replied:
- Apologies, I might be repeating some points below but to confirm you will be returning to a 0.3 CM and a 0.7 lecturing contract. If there is an opportunity and it is suitable to expand the management role in the future we can put in a business case to SLT requesting to do. This is not something that I can definitively offer right now but is something we would like to consider if possible in the future.*
83. The claimant's emails are polite, but it is evident that she has some concerns. The tribunal found the response of Ms Quinn to be comprehensive, thoughtful and warm in tone.
84. The claimant responded on 31 March 2023 asking for further clarification of the courses she may be managing setting out that she believed Ms Quinn had made inappropriate comments at their meeting on 9 March 2023 and also stating as follows: *can you please confirm the reason why the opportunity to become a 1.0 manager was not offered to me? Was I sidelined due to my pregnancy?'. This is the first time that the claimant suggests that there was an opportunity not offered to her or raises discrimination.*

85. Ms Quinn responded the same day by inviting the claimant to a meeting on 24 April to which she also invited Mr Beral and Mr Wojtyniak. She said she had been trying to update the claimant on developments within CAS, involve her in decision making and other possible opportunities, but understood from the claimant's email that these conversations had caused unwanted confusion. Ms Quinn then went on to confirm definitely the management role for the claimant on return and said other points could be discussed at the meeting.
86. A conversation about the claimant's attendance on 24 April 2023 ensued which led to a disagreement about Keeping in Touch (KIT) days. Ms Quinn told the claimant that she could count the attendance on 22 March 2022 as a KIT Day and claim payment for it. She later discovered that she had been incorrect firstly in suggesting that what was largely an informal visit should have been classed as a KIT Day and that furthermore where attendance was only for part of the day, only the hours attended should be paid. The claimant made lengthy submissions on this point and the dates on which Ms Quinn obtained information about the correct procedure and suggested that her refusal to authorise a full day of pay for part attendance for any subsequent KIT days was inconsistent and discriminatory. She said in closing submissions that Ms Quinn intentionally provided her with false information. In her email to Ms Quinn questioning her approach to the KIT day payments on the 19 April 2023 the claimant states that she believes she is being victimised as she has raised concerns over Ms Quinn's conduct.
87. The tribunal finds that Ms Quinn made a mistake about how and when KIT days should be paid. She was referred to the policy by Adam Beral and by HR, and once she had this information, she told the claimant that going forward the policy would apply. She also authorised full payment for 22 March due to the error being hers. She explained her position in an email to the claimant dated 21 April 2023. The tribunal finds that her actions in relation to KIT day payment were entirely appropriate and the claimant's interpretation of her actions in her email of 19 April 2023 was inaccurate.
88. On 14 April 2023 the claimant spoke to Hardeep Sokhi in human resources. She discussed her concerns and said she believed that she was being sidelined because of her pregnancy.
89. The claimant spoke to Matt Wojtyniak on 21 April 2023 by way of a scheduled teams call which he had offered. The claimant claims that during that conversation Mr Wojtyniak said that she was not offered the role of full time curriculum manager because she was on maternity leave, said '*you spinned everything*' and '*if you were more flexible we would want to help you more*'. Mr Wojtyniak denies making any of these comments. He says that the claimant told him that she did not apply for the job because she was on maternity leave. He said he tried to explain to her that everyone cared about her, but she felt that there was a conspiracy against her. The tribunal does not find it credible that Mr Wojtyniak would say that the claimant had not been offered a position because of her maternity. He is a senior manager in education who would know that was not an appropriate course or comment. Furthermore, there is no evidence that the claimant was interested in that role. In fact, the evidence is to the contrary. She did not apply for the role and simply asked Mr Beral on 25

July if her role as a 0.3 curriculum manager was safe. In her witness statement the claimant does not set out that Mr Wojtyniak made either of the other two comments in that meeting. The comment about flexibility was not put to Mr Wojtyniak in cross examination. The tribunal finds that on balance he did not say it. Again, it would be a surprising comment for a senior manager of his experience to make. The tribunal finds that Mr Wojtyniak did talk about the claimant feeling conspired against. It does not accept that he said the words '*you spinned everything*' but accepts he may have said something similar in his conversation in which he tried to re-assure the claimant that no-one was against her, and if so that this was not an inappropriate topic of conversation in the circumstances.

90. Also, on 21 April 2023 an organogram was circulated in CAS. Organograms were circulated periodically and Mr Wojtyniak's evidence was that these were primarily a means of letting internal staff know who to contact with regards to a particular query. He acknowledged that the claimant had inadvertently been missed off the chart, though noted that it was clear from looking at that and other charts that those on maternity leave were usually included. He said that it was a mistake, and his focus was on the chart showing who to contact. The claimant says that this was a deliberate act constituting a breach of contract as the chart was circulated shortly after her meeting with Mr Wojtyniak, and the only plausible explanation was that following the restructure [claimant's word] in July 2022 her role was non-existent within the management structure. The chart was not circulated by Mr Wojtyniak. The tribunal does not accept that the claimant's understanding of the reasons for her name not being on the chart is the only plausible explanation and finds that it is in fact implausible. The claimant's role did exist and when she began to discuss her return to work in March 2023 she was assured that she would come back as a 0.3 fractional manager and was told she could manage the level 2 applied science course. The tribunal finds that Mr Wojtyniak made a simple administrative error in not including the claimant on the chart.
91. The claimant attended a meeting with Ms Quinn, Mr Beral and Mr Wojtyniak on 24 April 2023. There are no notes of that meeting. The three managers' evidence is that the claimant came to the meeting visibly emotional and was not prepared to discuss the issues raised in her emails, rather that she wanted to level accusations at them and after a short period of time she stormed out of the meeting saying she was taking her case to court. The claimant's evidence is that the managers were not taking her or her concerns seriously and she realised the meeting was going nowhere so she asked for it to end.
92. It is the claimant's position that in that meeting she recounted an incident where after a conversation with Mr Wojtyniak she had become distressed and distracted from her baby who had then rolled off her bed and on to the floor. All three of the managers' evidence is that the claimant seemed to be claiming that Mr Wojtyniak was responsible for this incident. The claimant's case is that he made the hurtful comment '*did I push your baby down?*'. The managers' evidence is that he sought clarification as to whether she was accusing him of this. The tribunal finds that Mr Wojtyniak did ask the claimant whether he was accusing her of being responsible for the baby falling but it does not find that

this was a hurtful or provocative comment rather an attempt to clarify what appeared to him to be an outrageous accusation.

93. The claimant also claims in that meeting that Mr Wojtyniak and Ms Quinn laughed at her. Mr Wojtyniak said he may have had a nervous smile on his face due to the way the meeting was going. Ms Quinn acknowledges that when the claimant said she had taken offence that Ms Quinn's responses to her emails were in red font she sighed out of disbelief. It is clear from the managers' accounts of the meeting that they found it distressing and upsetting and the tribunal does not find it credible that they would have laughed at the claimant in the way she described. Nor does it accept that the managers ganged up on the claimant. Mr Wojtyniak was invited by Ms Quinn as he was someone the claimant had known for a long time and had a good relationship with. It is not surprising that due to the allegations made in the claimant's emails Ms Quinn invited Mr Beral to the meeting.
94. The following day Mr Wojtyniak asked HR to reach out to the claimant and offer support, which it did, and on 28 April 2023 Ms Quinn emailed the claimant to offer support and a further meeting if she wanted it.
95. On 24 April 2023 the claimant was offered an interview at another educational establishment. She attended an interview on 28 April 2023 and was offered the job. She emailed Matt Wojtyniak the same day requesting a reference.
96. Also on 28 April 2023, Adam Beral sent a message to all staff that Mumtaz Patel, one of the curriculum managers, was leaving. Her job was advertised on 8 May 2023 and the deadline for applications was 28 May 2023. The claimant did not apply for the position.
97. The claimant claims that the respondent failed to disclose this opportunity in a timely manner, by which the tribunal understands her to mean that because Ms Patel had disclosed to Mr Beral on or around 15 March 2023 that she was intending to resign, the respondent should have discussed that opportunity with her then. Mr Beral said that there was no definite resignation from Ms Patel at that time and it would have been inappropriate to discuss it with anyone until there was formal notification. The tribunal accepts this evidence and finds that the claimant was notified of the pending vacancy at the same time as other members of staff on 28 April 2023 which was also the date that Mr Beral had confirmation of the resignation.
98. The claimant claims that the person who was hired to replace Mumtaz Patel was less qualified than the claimant and that this was an act of victimisation and a breach of contract. The claimant could have applied for the role that Ms Patel vacated. She did not. Her evidence is that the appointee, Sam Turpin, had less experience in the field of education. As the tribunal was not taken to a job description or person specification for the opportunity it cannot conclude that the appointee was less qualified for the role than the claimant. Experience is not usually the only criteria in such a decision.

99. On 3 May 2023 the claimant asked HR for a copy of her curriculum leader contract and was told that there was not one. Mr Sokhi accepted that a contract for the position of curriculum leader had not been drafted.
100. The claimant resigned on 23 May 2023 by way of a letter dated 22 May 2023. Her employment ended on 22 August 2023, following her three-month notice period. The claimant issued a formal grievance on 23 May 2023. This was investigated by Emma King and the grievance was not upheld. The reasons why it was not upheld are set out in a decision letter dated 11 September 2023.
101. The claimant claims that Adam Beral and Catherine Quinn gave misleading information about career advancement from July 2022 to April 2023 and that from March 2023 to April 2023 contradictory and false statements were made about job opportunities. The evidence before the tribunal is that the claimant had not, at the time she went on maternity leave, raised that she wanted to increase her management fraction. It was raised for the first time with Ms Quinn and Mr Beral in the meeting on 22 March, but the tribunal finds from the witness evidence that what was raised was an increase in the claimant's fraction not that she wanted to become a full time curriculum manager. In any event the clear response from the respondent is that this can be discussed on the claimant's return and if there is a business case for it then a proposal can be made. The claimant's claim that the information given is confusing or contradictory is not borne out by the documentary evidence. On the second allegation, about false statements on job opportunities, this relates to the resignation of Ms Patel and is dealt with above.

Submissions

102. The parties made both oral and written submissions. Ms Duane said that the claimant's allegations fell into four categories: they did not occur at all; they did not occur in the manner or context advanced by the claimant; the allegations could not be sensibly responded to or they lacked specificity; and/or, there was no unfavourable treatment. The claimant maintained that she had been subject to discrimination throughout her pregnancy and maternity leave which ultimately led to her position becoming untenable, and she resigned.

Decision and reasons

103. References in roman numerals in this section are references to the list of issues attached to the Order of EJ Street, and reproduced above.
104. It will be clear from these findings of fact that the tribunal has largely preferred the witness evidence of the respondent over that of the claimant. The tribunal found the respondent's witnesses to be credible. Where a mistake had been made it was admitted, even in the course of cross examination. Where a witness could not remember a particular conversation or topic of discussion they said so. It is not the tribunal's expectation that any witness, on any side, would have a perfect recollection of events that took place 12 months or two years ago, and it is not its expectation that recollections of events will always tally perfectly. The tribunal found that the claimant, conversely, had a clear narrative and even in the face of clear evidence that events may not be as she perceived them, she held onto that narrative. An example of this, and there

were many, is her view, as stated in her closing submission that *Mr. Wojtyniak stated in his witness statement that the removal of my name from the college management chart was accidental. However, no credible evidence was provided to support this claim. The only plausible explanation for my removal from the management chart is the July 2022 restructure in the Centre for Applied Science has made my role non-existent within the management structure.* This was patently not the case as her role did exist and it is entirely plausible that someone may miss a person off a list of contacts when the person is long term absent. For these reasons the tribunal found much of her evidence lacking in credibility.

Constructive Unfair Dismissal

105. The claimant claims constructive unfair dismissal under s95 (1) c) Employment Rights Act 1996 (ERA). The tribunal is concerned to decide whether there has been a dismissal in accordance with that section which states:

95 circumstances in which an employee is dismissed

(1) For the purposes of this Part an employee is dismissed by his employer if (and, subject to subsection (2)....only if ...

...

(c) the employee terminates the contract under which he is employed (with or without notice) in circumstances in which he is entitled to terminate it without notice by reason of his employer's conduct.

106. The leading case on constructive dismissal of *Western Excavating (ECC) Ltd v Sharp 1978 ICR 221* makes it clear that the employer's conduct has to amount to a repudiatory breach. The claimant must show that a fundamental breach of the employment contract took place and that she resigned because of that breach without delay. The claimant relies on a breach of the implied term of trust and confidence.
107. The tribunal must decide whether the respondent did the acts that it is accused of in the list of allegations, then it must decide whether any that are proven breached the implied term of trust and confidence, and if so, whether the respondent had reasonable and proper cause for doing so.
108. The claimant relies on the 21 alleged breaches set out at paragraph 2 of the list of issues.
109. In respect of allegations i, ii, iii, iv, v, vii, viii, ix, x, xiii, xiv, xvii, xviii, xix, xx and xxi the tribunal has made clear findings of fact that these allegations are unproven either because they did not happen at all, or that for instance where the claimant claims that a comment was inappropriate, it was not inappropriate. The claimant cannot therefore rely on these allegations as breaches of contract warranting resignation.
110. Allegation 2 vi is that Catherine Quinn made various comments in a meeting on 9 March 2023. The tribunal has found that comments a. and b. were not inappropriate, comment c was a simple mistake and comment d was not made.
111. Allegation 2 xi is that the claimant was removed from the college organogram in April 2023. The tribunal has found that this was a simple mistake.

112. Allegation 2 xii is that the claimant was not provided with a curriculum leader contract between November 2020 and May 2023. The tribunal has found that the claimant was not provided with such a separate contract document.
113. Allegations 2 xv and 2 xvi are that in April 2023 Matt Wojtyniak, Adam Beral and Catherine Quinn behaved in a high handed manner because the claimant had complained of discrimination and that the respondent in April 2023 was guilty of an institutional denial of wrongdoing and lack of willingness to rectify its mistakes. Even though clarification was sought from the claimant on these allegations in the hearing the tribunal found that they were lacking in specificity. Her answer to counsel's questions about allegation xv was that the managers were not listening to her in the meeting of 24 April and that there had been a lot of confusion in communications. On allegation xvi she said she was talking about the respondent's mistake in excluding her from the restructure and when she raised this, refusing to correct it. The tribunal finds that these are largely a repeat of other allegations which the tribunal has found unproven. For the avoidance of doubt, it does not find that either of the allegations are made out. There was no persuasive evidence that the respondent was high handed in the meeting of 24 April and the tribunal's understanding of what happened at the meeting is set out above. As for allegation xvi – the tribunal has found that the claimant was not excluded from the re-organisation and there was, therefore, nothing for it to correct.
114. In the case of *Malik and Mahmud v Bank of Credit and Commerce International SA [1997] ICR 606* the House of Lords found that in relation to the implied term of trust and confidence an employer should not:
- “...without reasonable and proper cause, conduct itself in a manner calculated [or] likely to destroy or seriously damage the relationship of confidence and trust between employer and employee.”*
115. The tribunal finds that the error of Catherine Quinn (allegation 2 vi) on 9 March 2023 in referring to the claimant's management fraction as 0.2 and the error of Matt Wojtyniak (allegation 2 xi) in failing to notice that the claimant had not been included on the organogram in April 2023 were minor oversights and were not in any way calculated or likely to destroy or seriously damage the relationship of trust and confidence.
116. The tribunal agrees that the claimant was not provided with a separate curriculum leader contract (allegation 2 xii). She had a lecturer's contract, and she was provided with a statement of change of terms and conditions on the two occasions that her role changed on 21 July 2020 and 22 February 2021. She asked about a curriculum manager contract on 5 October 2020 and again on 3 May 2023 but did not receive one. The tribunal finds that this oversight on the part of the respondent was not of a level of seriousness so as to amount to a breach of the implied term of trust and confidence. The claimant was provided with a statement of her changes of terms and conditions, and she did not chase the missing contract for a period of almost three years. Even when placed next to the two errors described in the paragraph above, the tribunal does not find

that these acts were of sufficient seriousness to amount to a breach of contract. In addition, the tribunal notes that if there was a breach in relation the provision of a curriculum manager contract, the first breach on 5 October 2020 was affirmed. When the matter was raised again on 3 May 2022 the claimant had already told the respondent that she had been offered a new job and asked for a reference, indicating that the failure to provide a separate curriculum manager contract was not a reason for her resignation.

117. The claimant's claim of constructive dismissal is dismissed.

Pregnancy discrimination

118. S18 of the Equality Act 2010 prohibits discrimination against a woman on the grounds of pregnancy, or because of illness suffered by her because of it, or maternity leave during the protected period. The protected period starts when a woman's pregnancy begins and it ends, if she has the right to ordinary and additional maternity leave, at the end of the additional maternity leave period or (if earlier) when she returns to work after her pregnancy.

119. The question is whether the woman had been treated unfavourably and there is no need for a comparator. As in a direct discrimination case under s13 of the Equality Act 2010 pregnancy or maternity leave need only be factors influencing unfavourable treatment and need not be the main reason. The unfavourable treatment must be because of the pregnancy and maternity leave rather than only 'but for' it. *Johal v Commission for Equality and Human Rights UKEAT/0541/09* and *Indigo Design Build and Management Ltd and another v Martinez UKEAT/0020/14 and UKEAT/0021/14*,

120. The claimant relies on 23 allegations of discrimination as set out at paragraph 5.1 of the case management order.

121. In respect of allegations i, ii, iii, iv, v, vii, viii, ix, x, xii, xiii, xiv, xv, xvii, xviii, xxi, xxii and xxiii the tribunal has made clear findings of fact that these allegations are unproven either because they did not happen at all, or that for instance where the claimant claims that a comment was inappropriate, it was not inappropriate. The claimant cannot therefore rely on these allegations as evidencing discrimination.

122. Allegation 5 xi is that Catherine Quinn made various comments in a meeting on 9 March 2023. The tribunal has found that comments a. and b. were not inappropriate, comment c was a simple mistake and comment d was not made. The tribunal finds that that there is no evidence from which it could conclude that in mistakenly giving the claimant's management fraction as 0.2 rather than 0.3 and then quickly rectifying the error with an apology, Ms Quinn's actions were influenced at all by the claimant's maternity leave, or that this constituted unfavourable treatment.

123. Allegation 5 xvi is that the claimant was removed from the college organogram in April 2023. The tribunal has found that this was a simple mistake. The tribunal accepts that the mistake was most likely made as the claimant was absent on maternity leave and therefore not at the forefront of Mr Wojtyniak's mind when he was reviewing a chart which had the purpose of providing contact

information. The tribunal finds that the reason for Mr Wojtyniak's oversight was that the claimant was absent from the workplace, and it was her absence, rather than the fact that she was on maternity leave that was the operative factor. Furthermore, the tribunal does not find that this oversight constitutes unfavourable treatment. The claimant was absent from work, there was no need for anyone to contact her other than her line manager and her queries about whether her job would be available in the same form as 0.7 lecturer and 0.3 manager on her return from maternity leave had been clearly and repeatedly answered in the affirmative.

124. On allegations xix and xx, behaving in a high handed manner and institutional denial of wrong doings in April 2023, the tribunal repeats the findings it made on these allegations under the heading of constructive dismissal and concludes that they are not proven.
125. Allegation vi is '*Not providing the claimant with a quiet space to rest, thus subjecting her to humiliation by Matt Wojtyniak.*' The tribunal has found that the claimant was twice allocated room 101 by line managers. Her uncontested evidence was that Sasha Murmann had allocated the room to her for her sole use for rest, and Ms Ramsay's evidence was that she allocated it to her for her sole use because her office on the 9th floor was too hot. Mr Wojtyniak knew it had been allocated to her. He did not disagree that Ms Ramsay had allocated it for her sole use, and he said that it was not always available to the claimant. He accepted that he had allocated the room to others, for example during the exam period. The claimant knew that it was Mr Wojtyniak's decision as to whether the room could be used by others as she had spoken to him about it on 23 March 2022. The tribunal finds that the claimant was not provided with a quiet place to rest, that she felt humiliated when she had to use inappropriate spaces to rest and that she fairly attributed this humiliation to Mr Wojtyniak as he had the power to ensure that she had a space for her sole use and had not done so, or had, contrary to promises made by Sasha Murmann and Sarah Ramsay, allocated to the room to others in any event. While it is accepted that Mr Wojtyniak was aware that the claimant was pregnant at the relevant time, his reasons for allocating the room to others at busy times were either due to a shortage of space or, during the exam period allocating it to the exams office, as the room was nearer the rooms where students were sitting exams. The tribunal finds that the claimant's pregnancy was not a factor in his decision and therefore although it accepts that the treatment received by the claimant was unfavourable, it finds that the treatment was not related to pregnancy and this was not discrimination on the grounds of pregnancy.
126. The claim of pregnancy discrimination is dismissed.

Sex Discrimination

127. The claimant brings a single allegation of direct sex discrimination. The allegation is that Catherine Quinn made an inappropriate comment on 9 March 2023 that '*you want to have it all*'.
128. Under Section 13 EqA 2010:
(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.

129. The first task for the tribunal then is to identify less favourable treatment. The tribunal has found that this allegation has no substance in that while Ms Quinn may have made a comment like that, if not exactly in those words, in the context of the conversation the claimant and Ms Quinn were having, i.e where they were discussing their own working mothers whom they respected, the comment was not inappropriate. As no inappropriate comment was made no act of discrimination can be founded on this allegation.
130. The claim of sex discrimination is dismissed.

Victimisation

131. Section 27(2) Equality Act 2010 states that victimisation occurs where a person (A) subjects another person (B) to a detriment because B has done, intends to do, or is suspected of doing or intending to do, any of the following protected acts:
- a) bringing proceedings under the Equality Act 2010;
 - b) giving evidence or information in connection with proceedings under the Equality Act 2010, regardless of who brought those proceedings;
 - c) doing any other thing for the purposes of or in connection with the Equality Act 2010.
132. The claimant relies on two protected acts, being
- a. That she raised a concern about being sidelined due to pregnancy on 31 March 2023, and
 - b. She raised the same concern to HR on 14 April 2023.
133. Ms Duane, for the respondent, disputed that these acts amounted to protected acts. She said that the first was a question rather than an allegation and the second act was done in bad faith. The tribunal found that the claimant had clearly raised an allegation of pregnancy discrimination for the purposes of s27(2)(d). It did not accept that the first act was merely a question. The respondent will have been on notice from this point. It did not accept that there was any element of bad faith in the claimant's discussion with HR on 14 April 2023.
134. However, the detriments relied upon, which are listed at paragraph 6.2 of the list of issues are all allegations that the tribunal has determined to be unfounded under one of the heads of claim set out above. For this reason, the tribunal concludes that the claimant did not suffer detriment due to doing protected acts, and the victimisation claim is dismissed.

Time

135. **123 Time limits**
- (1) *Subject to section 140B proceedings on a complaint within section 120 may not be brought after the end of—*
- (a) *the period of 3 months starting with the date of the act to which the complaint relates, or*
 - (b) *such other period as the employment tribunal thinks just and equitable.*
- (2)...
- (3) *For the purposes of this section—*

- (a) conduct extending over a period is to be treated as done at the end of the period;*
- (b) failure to do something is to be treated as occurring when the person in question decided on it.*

136. While the claim of discrimination has been dismissed the tribunal did go on briefly to consider the matter of time. It is the respondent's position that all alleged acts of discrimination that took place before 8 March 2023 are out of time. It states that it would not be just and equitable to extend time where the claimant was part of a trade union at the relevant time, did not raise any informal or formal grievance in respect of her allegations, and was not incapacitated in any way.
137. The claimant only made submissions on time on prompting by the tribunal. She said that she was within the time limit as she initially clarified with Adam Beral on 25 July 2022 that she would increase her manager contract and only knew on 9 March 2023 that she had been excluded and discriminated against. At that time, she took all the steps. She said that it should be regarded as a continuing act of discrimination as there is a pattern that links the comments Mr Wojtyniak makes linked throughout her pregnancy and maternity, and all of the people involved are CAS management.
138. All of the allegations relating to the claimant's pregnancy before she commenced her maternity leave are substantially out of time. The tribunal did not find that there was a link between those acts that were out of time and those that were not, i.e. the claims about the respondent's conduct from 9 March 2023 onwards, so as to constitute a continuing course of conduct. The subject matter was different and in the case of Ms Ramsay, different people were involved.
139. If any of the allegations had been proven the tribunal would have had to decide whether it would be just and equitable to extend time for filing the claim for those pre 8 March 2023 claims. In considering whether it was just and equitable to extend time the tribunal would need to consider a number of factors which may include the length of the delay and the reasons for it, how the delay might have prejudiced the respondent's ability to defend the claim, the prejudice to the claimant in being time barred from bringing her claim and a consideration of the merits of the claim. This list is not exhaustive and no one factor is necessarily more important than another.
140. In this case where a decision has already been made on the substantive claim, essentially the factors for consideration are the length of the delay and the reasons for it as well as the prejudice to the claimant in being time barred. It is the decision of the tribunal that the claimant has given no good reason for the delay. Despite feeling aggrieved by the actions of the respondent during March to July 2022 the claimant raised no grievance. The matters that arose from 9 March 2023 onwards and which led to her filing a claim in July 2023 were not connected to those actions and were of a different nature. In any event, if the claimant believed from 9 March 2023 that there was a pattern of discrimination, she could have filed a claim then but still did not do so for a further four and a half months. The claimant was not, as the respondent noted, incapacitated at the relevant time and was clearly aware of her rights. She is intelligent and

articulate. She was a trade union member and sought trade union assistance when she required it. The tribunal does not find that the claimant would have been substantially prejudiced by allegations pre 8 March 2023 being time barred where she made no complaint about the incidents complained of for at least a year and had clearly decided in July 2022 when she commenced maternity leave not to pursue a complaint.

141. For these reasons the tribunal's view is that it would not have been just and equitable to extend time for the filing of allegations of discrimination that took place before 8 March 2023.

Statement of terms and conditions

142. The claimant claims that the respondent was in breach of its duty to provide a written statement of employment particulars or a change to those particulars. Under section 1 of the Employment Rights Act 1996 an employer must provide a statement of initial employment particulars. The claimant was provided with an employment contract when she commenced employment with the respondent on 14 October 2019.
143. Section 4(1) of the Employment Rights Act 1996 states:
If, after the material date, there is a change in any of the matters particulars of which are required by sections 1 to 3 to be included or referred to in a statement under section 1, the employer shall give to the worker a written statement containing particulars of the change.
144. The claimant's role changed twice and each time, 21 July 2020 and 22 February 2021, she was provided with a written statement containing particulars of change.
145. The tribunal finds that there was no breach of the duty to provide a statement of terms and conditions and does not uphold this claim.
146. The claimant's claim is dismissed in its entirety.

Employment Judge Anderson

Date: 14 June 2024

Sent to the parties on: 19 June 2024.....

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For the Tribunal Office