Case Number: 2304938/2022
& 2304940/2022

EMPLOYMENT TRIBUNALS

Claimant: Mr D Ideh

Respondent: Cathay Investments Ltd

Heard at London South On 17 June 2024

Before: Employment Judge Hindmarch

Appearances
For the Claimant: Mr Elesinnla - Counsel
For the Respondent: Mr O'Callaghan - Counsel

JUDGMENT

1. At the relevant time, the Claimant was a disabled person as defined by section 6 Equality Act 2010 because of schizophrenia, anxiety and stress.

2. The Respondent's application to strike out the claim is refused.

3. The Respondent's application for a deposit order is refused.

4. The Claimant's application for a restricted reporting order is refused.

REASONS

1. This matter came before me for a Public Preliminary Hearing listed by Cloud Video Platform for 3 hours on 17 June 2024. I had a bundle of documents running to 540 pages. On the morning of the hearing I was provided with an additional witness statement from the Claimant. The Claimant gave evidence and I had written submissions from Counsel for the Claimant Mr Elesinnla and Counsel for the Respondent Mr O'Callaghan. Both Counsel made oral submissions. It was agreed that I would reserve my decision given the limited time available at the hearing.

2. The Claimant was originally pursuing complaints of both race and disability discrimination. At a Case Management Preliminary Hearing on 29 June 2023 the Claimant withdrew the race discrimination claim. It was noted that the Claimant was relying on 3 disabilities – schizophrenia, anxiety and stress. Orders were made for the provision of a Disability Impact Statement and medical records. The Final Hearing was listed for November 2024.

3. I shall deal firstly with the disability issue.

4. The Claimant provided a Disability Impact Statement dated 7 July 2023 which was at pages 204-205 of the bundle. He provided some medical evidence in support, copies of which were at pages 206-218 of the bundle. On 15 August 2023 solicitors instructed by the Respondent wrote to the Tribunal and the Claimant stating that they did not concede that the Claimant was a disabled person for the purposes of the Equality Act 2010 definition. They requested a further Preliminary Hearing on this issue.

5. On 15 September 2023 the solicitors instructed by the Respondent wrote to the Tribunal making an application to strike out the claims on the basis they were "spurious and vexatious and had no reasonable prospects of success" or, alternatively, for a deposit order.

6. On 21 November 2023 the Tribunal informed the parties that a Preliminary Hearing would be listed to consider the issue of disability and strike out/deposit order and that the Case Management Orders that had been made at the Case Management Preliminary Hearing should be stayed.

7. The Preliminary Hearing was listed for 16 April 2024. It came before me on that date but had to be postponed due to the Claimant not having an accessible bundle. So as not to jeopardise the Final Hearing, I re-listed it to come back before me on 17 June 2024.

8. The Claimant was employed by the Respondent for a short period between 14 November 2022 and 19 December 2022 in the role of Legal Executive.

9. In the Disability Impact Statement dated 7 July 2023 the Claimant described experiencing a non-organic psychotic episode in 2009 and being referred by his GP to a Clinical Psychologist. He said he was diagnosed with schizophrenia by a Professor Hirsch at The Priory Clinic. In evidence he said Professor Hirsch had diagnosed him with schizophrenia "around 2009". He said he had not retained any medical evidence from this time; he had tried to contact Professor Hirsch for this but that he is no longer practicing at The Priory and that they only keep records for 6 years. He said he was prescribed medication and continues to take aripiprazole. He said he had been referred for cognitive behaviour therapy. He described the effects of his condition as being insomnia, anxiety and stress, lethargy and low mood. He said he suffered from poor concentration and has panic attacks when travelling on public transport. In terms of everyday tasks he said he struggles to bathe, sleep or prepare food. He said if he does not take his medication, he risks a relapse into "a full-blown psychotic episode".

10. The medical records provided by the Claimant were somewhat limited in number. At pages 339-340 of the bundle was a Care Plan Review letter from the Central and North West London NHS Foundation Trust dated 4 April 2022. This recorded that the Claimant was experiencing fluctuating psychotic symptoms of "auditory hallucinations and poor sleep" and panic attacks. The plan was to increase his medication and to trial another medicine. The Claimant accepts he did no share this wit the Respondent during his employment.

11. At page 206 was a fit note dated 14 December 2022 referencing "mental health problems" and stating that the Claimant was not fit for work from 13-19 December 2022. In evidence the Claimant accepted this fit note was prepared by a GP and did not specifically refer to the 3 disabilities relied on by name.

12. At page 207 there was a letter from a Trainee Clinical Psychologist at the Central and North West London NHS Trust dated 14 December 2022 which stated that the Claimant "has a long-term history of mental health difficulties first starting in 2009". This referenced "symptoms of anxiety, stress and panic attacks" but made no mention of schizophrenia. It stated "engaging in tasks, sleep, and relationships with others" can prove problematic. It explained "symptoms can be lifelong but will likely fluctuate over time and there will be times when they impact on (the Claimant's) life more significantly". It explained he was being treated by the Trust but did not specify what the treatment was other than support to manage the symptoms. In evidence the Claimant explained that he was having counselling at the time. He accepted his symptoms fluctuated.

13. At page 208 was a letter dated 2 days later on 16 December 2022 from Dr Alexandra Thomson-Moore referring to "a working diagnosis of schizophrenia with a history of non-organic psychosis". It stated the Claimant was under the care of the mental health team and would be receiving weekly therapy and was "stable on medication" but without the medication, depression and struggling to cope would occur. It explained that the Claimant's last relapse had been as a result of bereavement in January 2022.

14. At pages 209-211 was a report from Dr Gupta, a Consultant Psychiatrist, dated 29 March 2023. This explained the Claimant was reviewed and was under the care of the NHS, was taking aripiprazole and had received a few sessions of psychotherapy. It referred to "a presentation which has attracted a diagnosis of a psychotic illness, with paranoid symptoms and previously that of paranoid schizophrenia". Under the heading "Psychiatric History" the letter recorded that the Claimant "recounted a minor episode in 1997, on a background of educational stress… In 2009 he took ill following the break up of his three year relationship. He was treated with Aripiprazole 10mg, a treatment which he has taken on and off for the last 12 years with benefit". Towards the end of the letter Dr Gupta states "In summary, (the Claimant) presented with a history of mental illness dating back to at least 2009, with

psychotic symptoms of a paranoid nature. The diagnosis is likely to be one of paranoid psychosis, with a differential diagnosis of paranoid schizophrenia. (The Claimant) expressed concern for the diagnosis of schizophrenia, as it attracts adverse attention. I am in agreement with this and, for now, would refrain from using this diagnosis until I am able to review his record and clarifying the same". Dr Gupta recommended that the Claimant continue taking aripiprazole and referred him for CBT psychotherapy. There was nothing further from Dr Gupta in terms of medical evidence.

15. As I have explained above, on the morning of the hearing I was provided with a second Disability Impact Statement from the Claimant. This expanded on his earlier statement. He described his own experiences of schizophrenia stating that he suffers from psychosis and auditory hallucinations, the latter making "everyday interpersonal interactions difficult to manage". He said he has anxiety, stress and depression. He said he suffers from insomnia and when he has a depressive episode he struggles to bathe and brush his teeth, forgets to eat and finds it difficult to concentrate and complete tasks on time. In evidence the Claimant contended that anxiety and stress were symptoms of schizophrenia.

16. The Claimant was dismissed by the Respondent during his probationary period. He was given an onboarding new-starter form and it is not in dispute that he did not declare any medial issues. It is not in dispute that the Claimant informed the Respondent's HR Director and Finance Director that he had to attend regular medical appointments and at page 253 is a "file note" with the Respondent recording that on 28 November 2022 the Claimant told the Respondent "he had a long term medical condition regarding his mental health". Under cross-examination at this hearing the Claimant accepted he did not specifically mention schizophrenia, anxiety or stress at this time. The notes recorded the Claimant's reference to the Claimant taking medication, a side effect of which was drowsiness leading him to be late for work in the morning. The Claimant said in evidence that he told te Respondent about his mother passing away and he impact this was having on hm at work.

17. It is not in dispute that the Claimant provided the Respondent with a copy of an Appointment letter from the Central and North West London NHS Foundation Trust dated 18 November 2022 evidencing a "first treatment" with a Trainee Clinical Psychologist on 25 November 2022, pages 249-250.

18. It is again not in dispute that the Claimant provided the Respondent with a copy of the aforementioned fit note dated 14 December 2022. On 14 December the Claimant and the Respondent's HR Director exchanged emails where the Claimant referred to having a disability, to undergoing psychiatric and psychotherapy treatment to "stress and anxiety" and to taking medication.

19. On 19 December 2022 the Respondent conducted a probation review meeting with the Claimant. Copies of the notes are at pages 268-273. The Claimant again referred to his "disability", but did not specify what this was.

20. The Claimant furnished the Respondent with a copy of the aforementioned letter from Dr Alexandra Thomson-Moore dated 16 December 2022.

Submissions on Disability

21. In oral submissions Mr O'Callaghan agreed he accepted the written submissions of Mr Elesinnla on the law, however, the Respondent's position was that the Claimant was not disabled at the relevant time i.e. during his relatively short period of employment with the Respondent.

22. The Respondent's position was that the evidence provided by the Claimant did not satisfy the test under section 6 of the Equality Act 2010 for a number of reasons:

    a. The medical records state that the Claimant "can" present with symptoms, indicating the symptoms may flare up in response to certain life events as opposed to as a result of a specific diagnosed condition.

    b. The evidence referred to a "working" diagnosis rather than an actual diagnosis.

    c. The conditions were not necessary long-term.

    d. The records show medication was taken intermittently.

    e. The majority of the medical evidence post-dates the period of employment with the Respondent.

    f. The records are very limited and do not appear to cover all 3 conditions.

    g. There were no records of Professor Hirsch's alleged diagnosis of schizophrenia.

23. In oral submissions Mr O'Callaghan stated that the issue came down to the extent of the medical evidence provided by the Claimant who had the burden of proof.

24. He argued he would expect to see a formal diagnosis from a recognised medical practitioner but this was lacking. He acknowledged that, in the ET3, the Respondent had initially conceded disability, but had changed its position after solicitors were instructed.

25. Mr O'Callaghan also made submissions on the Respondent's knowledge of any medical issues.

26. In his Skeleton Argument, Mr Elesinnla set out the relevant law, with which the Respondent was in agreement and which I set out below.

27. Mr Elesinnla directed me to the EHRC Employment Code which states "there is no need for a person to establish a medically diagnosed condition for the impairment. What is important to consider is the effect of the impairment, not the cause". The Code also gives guidance on day-to-day activities, being the type of activities carried out by most men and women on a fairly regular and frequent basis.

28. In oral submissions Mr Elesinnla said the Respondent was proceeding on a misconception; the focus should not be on a medical diagnosis but instead the effects endured by the Claimant.

The Law

29. Section 6 Equality Act 2010 gives us the following definition:

    "A person (P) has a disability if:

    (a) P has a physical or mental impairment; and

    (b) The impairment has a substantial and long term effect on P's ability to carry out normal day-to-day activities.

30. The case of *Goodwin v Patents Office (1999) ICR 302 EAT* identified the following questions for consideration:

    (1) Did the Claimant have a mental and/or physical impairment?

    (2) Did the impairment have an adverse effect on the Claimant's ability to carry out normal day-to-day activities?

    (3) Were the adverse effects substantial?

    (4) Were the adverse effects long term?

31. In *Goodwin* it was noted that Tribunals should give a purposive construction to the s6 definition. The Equality Act aims to offer protection rather than to limit it.

32. The material time at which to assess whether the Claimant met the definition was at the date of the alleged discriminatory act – *Cruickshank v VAW Motorcast Ltd (2002) LER 727, EAT*.

33. Substantial means "more than minor or trivial". There is Guidance on matters to be taken into account in determining questions relating to the definition of disability. The Appendix to the Guidance contains non-exhaustive lists of circumstances where it would be reasonable to regard a Claimant as a person suffering a substantial adverse effect, and one of

circumstances where it would not. The former list contains examples such as difficulty in getting dressed because of low motivation and frequent intrusive thoughts or delusions.

34. The long term element of the definition means the impairment has lasted for 12 months, is likely to last for 12 months or is likely to last for the rest of the life of the person affected. "Likely" means "could well happen" – *Boyle v SCA Packing Ltd (Equality and Human Rights Commission Intervening) (2009) ICR1056, HL.*

35. The effects of measures taken to treat the impairment (e.g. medication) should be ignored when assessing whether an impairment has a substantial effect on the Claimant's ability to carry out day-to-day activities.

36. A Tribunal may have to consider the position where an impairment ceases to have a substantial adverse effect on a Claimant's ability to carry out day-to-day activities and whether that is likely to recur. If the effect is likely to recur the Claimant meets the s6 definition. The likelihood of recurrence must be assesses as at the date of the act of discrimination.

Conclusions on Disability

37. I accept that the Claimant provided little medical evidence. I need to ask myself firstly whether he had a mental impairment at the time of his short employment with the Respondent. His evidence was that he was diagnosed with schizophrenia in "around 2009" and had been prescribed medication at that time which he had been taking for most of the time thereafter, that being aripiprazole which is a medication used to manage and treat schizophrenia amongst other conditions. The medical documents dated 14 December 2022 and 16 December 2022 refer to "mental health difficulties"; "anxiety, stress and panic attacks" and "a working diagnosis of schizophrenia with a history of non-organic psychosis". The later report of Dr Gupta in the summary section confirms this. I accept this post-dates the relevant period of employment but it does refer to history dating back to 2009. All 3 conditions relied on by the Claimant are referenced in the medical evidence.

38. The Claimant was undergoing counselling at the time of his employment. I am satisfied he had a mental health impairment namely schizophrenia, anxiety and stress.

39. I next have to ask if the impairment had an adverse effect on the Claimant's ability to carry out day-to-day activities. In his evidence the Claimant described poor concentration, panic attacks when using public transport, insomnia, difficulty in managing everyday personal interactions, struggling to bathe and brush his teeth, lack of concentration and forgetting to eat. Many of these matters are normal everyday activities which are clearly adversely affected and many are the type of issues that appear in the Guidance.

40. I then have to consider whether these affects were substantial, namely more than minor or trivial. It was clear from the Claimant's evidence that they were.

41. I then have to consider whether the affects were long term. It is clear that circumstances of personal stress (the breakdown of a relationship or a bereavement) cause the Claimant's health to significantly deteriorate. It is clear that with medication and counselling the Claimant's health improves. It is my conclusion that he has a recurring condition which can be triggered by life events or by failing to take medication. Without medication and counselling the Claimant would become very unwell. At the time of this employment it had lasted since 2009, so was long term.

Strike Out/Deposit Order Submissions

42. The Respondent says the claims are spurious, vexatious and/or have no reasonable prospects of success. It says the Claimant was only employed by the Respondent for 5 weeks and did not tell the Respondent or produce any evidence to the Respondent to suggest that he considered himself disabled. It says, and the Claimant accepts, he failed to complete an onboarding health questionnaire.

43. In the Respondent's written submissions Mr O'Callaghan accepted the Claimant's case must be taken at its highest and he set out a section from the Particulars of Claim which states:

    "During the week of 21 November 2022, the Claimant advised the Respondent that he had a medical appointment on the 25 November to attend counselling treatment. He explained that as a result of his medical condition he was experiencing some difficulties in arriving at work. He provided the HR personnel with a letter of appointment dated 18/11/2022 requesting that he attend for treatment on the 25 November 2022. As Kevin Johnson was not available until early the following week a meeting was arranged for Monday the 28 November 2022. The Respondent had actual or constructive knowledge of the Claimant's disability as a result of that meeting and the discussion that preceded it".

44. The Claimant supplied the Respondent with a letter confirming his medical appointments. Mr O'Callaghan says that did not convey knowledge of disability.

45. Mr O'Callaghan referred to the Respondent's notes of the meeting on 28 November 2022. These record the Claimant stating "he would be required to attend regular hospital appointments" and explaining "he had a long-term medical condition regarding his mental health, the hospital were carrying out tests and it was yet to be diagnosed".

46. Mr O'Callaghan asserted that at the probationary review meeting (page 271) the Claimant did not mention the nature of his disability.

47. Mr O'Callaghan accepted that case law has established that it is not appropriate to strike out discrimination claims where there are disputed facts but contended the Tribunal was not prevented from striking out weak claims. He argued it was possible to strike out here as the contemporaneous documents pointed to there being "important facts but they can be resolved summarily by reference to the documents" – *Mr Jatto v Goodloves,, Solicitors and Others (UK/EAT/0300/07)*.

48. In Mr O'Callaghan's submission the documents demonstrated the Respondent had no knowledge of disability and that the Claimant was dismissed for a reason (failure of his probationary period) which had no connection at all to disability. He argued the Claimant had made a false and misleading allegation in his ET1 that he was dismissed by text when it was clear from the papers that he was dismissed at the conclusion of a probation review meeting. He said this falsehood was "scandalous, vexatious and unreasonable conduct".

49. I was referred to *Ukegheson v Haringey LBC (2015) ICR 1285 (para 23)* where the purpose of the strike out power was explained as follows:

> "The purpose, as it seems to me, of the provision of the strike-out rule is twofold. In an appropriate case it serves to avoid the exposure of a respondent to unnecessary expense. A respondent may not be able to recover its costs of defending a labyrinthine, detailed, lengthy claim, which may be ill-formulated and which may take several days of hearing brought by a party who, if they lose, will have no substantial assets with which to pay any award of costs to which the respondent might otherwise be entitled under the costs provisions in the Rules. However, its other and central purpose is to provide for straightforward and obvious cases where, on any showing, there is no prospect in reality of success (other than perhaps a fanciful one) to be removed from consideration and in that way preserve the resources of the court and the parties and ensure that other cases have a better chance of being heard promptly before the tribunal. It can thus serve a very important function, but it is important to keep it in its proper place. There is no room…for the proceedings to become something of a mini-trial…"

50. If I was against him on the strike out application, Mr O'Callaghan urged me to make a deposit order on the basis the claim had little reasonable prospects of success.

51. In Mr Elesinnla's submission the claim should not be struck out. His view was there were matters of factual dispute which needed to be aired at a full merits hearing. He also argued against a deposit order.

The Law

52. Rule 37 Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 provides:

"(i) … a Tribunal may strike out all or any part of a claim… on any of the following grounds:

(a) that it is scandalous or vexatious or has no reasonable prospects of success".

53. Rule 39 provides that a deposit order may be made where "any specific allegation or argument in a claim… has little reasonable prospects of success".

54. The Respondent's application refers to the word "spurious" which does not appear in Rule 37. "Vexatious" was considered by Bingham LJ in *Attorney General v Barber (2000) EWHC 453 as follows:*

"Vexatious is a familiar term in legal parlance. The hallmark of a vexatious proceeding is in my judgment that it has little or no basis in law (or at least no discernible basis); that whatever the intention of the proceeding may be, its effect is to subject the defendant to inconvenience, harassment and expense out of all proportion to any gain likely to accrue to the claimant; and that it involves an abuse of the process of the court, meaning by that a use of the court process for a purpose or in a way which is significantly different from the ordinary and proper use of the court process."

55. As accepted by the Respondent the threshold for striking out a claim or response for having no reasonable prospects of success is high. *In Ezsias v North Glamorgan NHS Trust [2007] EWCA Civ 330*, the Court of Appeal held that where there are facts in dispute, it would only be "very exceptionally" that a case should be struck out without the evidence being tested. Tribunals should not be overzealous in striking out a case as having no reasonable prospect of success, unless the facts as alleged by the Claimant disclosed no arguable case in law.

56. Strike out is a "draconian power". In *Balls v Downham Market High School & College UKEAT/0343/10,* the EAT held that it is a power that should be exercised only after a careful consideration of all the available material, including the evidence put forward by the parties and the documentation on the Tribunal's file. The EAT emphasised that, "no reasonable prospects of success" does not mean the Claimant's claim is likely to fail, or it is possible the claim will fail, and it is not a test that can be determined by considering whether the other party's version of disputed events is more likely to be believed. It is a high test: there must be *no* reasonable prospects of success.

57. The House of Lords in *Anyanwu and another v South Bank Students' Union and South Bank University [2001] IRLR 305*, said that discrimination claims should not be struck for having no reasonable prospects of success, except in the plainest and most obvious cases. It was a matter of public interest that

tribunals should examine the merits and particular facts of discrimination claims.

58. The approach to be followed by a tribunal when faced with an application to strike out a discrimination claim was conveniently summarised by the EAT in *Cox v Adecco [2021] 4 WLUK 11*, based on relevant authorities including *Anyanwu, Ezsias, Tayside and Mechkarov v Citibank NA [2016] ICR 1121*:

- Only in the clearest case should a discrimination claim be struck out. However, no one gains from truly hopeless cases being pursued to final hearing.
- Where there are core issues of fact that turn to any extent on oral evidence, they should not be decided without hearing oral evidence.
- Where factual issues are disputed, it is highly unlikely that strike-out will be appropriate. A tribunal should not conduct an impromptu mini trial of oral evidence to resolve core disputed facts.
- It is necessary to consider, in reasonable detail, what the claim and issues are in order to determine whether a claim has reasonable prospects of success.
- If the claim would have reasonable prospects of success if it had been properly pleaded, consideration should be given to the possibility of an amendment.
- The claimant's case must ordinarily be taken at its highest.
- If the claimant's case is "conclusively disproved by" or is "totally and inexplicably inconsistent" with undisputed contemporaneous documents, it may be struck out.

59. On the issue of deposit orders, The Tribunal is of the view that any specific allegation or argument in a claim or response has "little reasonable prospect of success", it can make an order requiring the party to pay a deposit to the tribunal, as a condition of being permitted to continue to advance that allegation or argument (rule 39(1) of the Employment Tribunals Rules of Procedure 2013.

60. In *Van Rensburg v Royal Borough of Kingston-Upon-Thames and others UKEAT/0096/07; UKEAT/0095/07* Mr Justice Elias concluded that "a tribunal has a greater leeway when considering whether or not to order a deposit" than when deciding whether or not to strike out.

Conclusions on Strike Out/Deposit Order

61. Much of the Respondent's cross examination of the Claimant and submissions turned to the issue of the Respondent's knowledge of disability. I am not making any findings about its knowledge or otherwise save for the factual narrative above, which is not in dispute. Taking the Claimant's case at its highest he disclosed to the Respondent on 28 November that he had

a long-term medical condition regarding mental health and was dismissed 3 weeks later. He says the Respondent's actions amounted to discrimination.

62. There is clearly a factual dispute about what precisely the Claimant told the Respondent about his health and what the reason for his dismissal was. I cannot say at this juncture that the claim has no reasonable prospect of success. I accept the Respondent offers a plausible reason for dismissal and argues it had no knowledge of disability but these are matters that should be aired at a full merits hearing. The Respondent is correct that the Claimant is mistaken in the ET1 where he says he was dismissed by text. This is a matter he will need to explain at the Final Hearing. I do not find this was of itself vexatious. I did not find it to be an abuse of process or a pleading made to inconvenience or harass the Respondent.

63. I therefore refuse the strike out application. I do not find there are grounds for a deposit order. I cannot say there are little reasonable prospects of success. There are matters of factual and legal dispute that should proceed.

Rule 50 Application

64. The Claimant made an application for an order that his identity not be disclosed to the public given that evidence of a personal nature (regarding his disability) may go into the public domain. Mr Elesinnla referred me to Rule 50 (3)(d) and *F v J (2023) ICR D1, EAT*.

65. The Respondent opposed the application citing the common law principles of open justice and making the point that the Claimant had produced no evidence such as letters from his GP raising concerns about the impact of proceedings on his mental health.

66. Mr O'Callaghan cited the EAT in *Fallows v News Group Newspaper Ltd UK EAT/0075/16* where it was established:

"The burden of establishing any derogation from the principle of open justice or full reporting lies on the person seeking that derogation.

67. It must be established by clear and cogent evidence that harm would be done to the privacy rights of the person seeking the order.

68. Rule 50 gives the Tribunal the power to make an order with a view to preventing or restricting the public disclosure of any aspect of proceedings so far as it considers necessary and in the interests of justice. The Tribunal is to give full weight to the principle of open justice and to the Convention right to freedom of expression. The types of order that can be made under Rule 50 include ongoing parties.

69. Article 8, the right to respect for private life, may be engaged here. Article 6(i) concerns the right to a fair and public hearing with judgment given publicly.

70. Open justice is a fundamental principle and derogations from this are wholly exceptional. Anonymity should only be granted where it is strictly necessary.

71. It is not enough for the Claimant to assert he would be prejudiced. There must be cogent evidence that justice cannot be done without publicity being restricted. Embarrassment is unlikely to be sufficient.

72. I note the report of Dr Gupta refers to the Claimant being concerned that the diagnosis of schizophrenia may attract adverse attention. I am of the view this does not meet the high threshold of being cogent evidence that publicity should be restricted. The principle of open justice is of paramount importance – *British Broadcasting Corporation v Roden (2015) IRLR 627*.

73. There is no medical evidence that the Claimant would suffer any adverse attention by the publication of his name and the nature of his mental health condition. I accept the Claimant stated in the witness statement produced on the morning of this hearing that publication may worsen his condition and may affect his employability as a lawyer. I have no medical evidence to support the first point and although I would accept litigation can be stressful, the Claimant has chosen to bring these proceedings. On the latter point it is conjecture to say he may never work again.

74. I therefore refuse to make an order under Rule 50.

Employment Judge Hindmarch
3 July 2024

Sent to the parties on
8 July 2024