Neutral Citation Number: [2025] EAT 16

Case Nos: EA-2021-001064-AT; EA-2021-001131-AT; EA-2022-000639-AT
EA-2022-000642-AT; EA-2022-000645-AT; EA-2022-001155-AT
EA-2022-001484-AT; EA-2023-000357-AT; EA-2023-000834-AT

EMPLOYMENT APPEAL TRIBUNAL

Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 31 January 2025

Before :

THE HONOURABLE MRS JUSTICE EADY DBE, PRESIDENT
MR NICK AZIZ
MR STEVEN TORRANCE

- -

EA-2021-001064-AT

Between:
Mr L Ramos

Appellant

-and-

Wolf Data Systems Limited (debarred)

Respondent

EA-2021-001131-AT

Between:
Mr L Ramos

Appellant

-and-

Chalcot House Services Limited

Respondent

EA-2022-000639-AT

Between:
Mr L Ramos

Appellant

-and-

(1) Maid Solutions Ltd (2) Ross Allan McKenzie

Respondents

EA-2022-000642-AT

Between:
Mr L Ramos

Appellant

-and-

Lulu's Bistro Good Mood Food (debarred)

Respondent

EA-2022-000645-AT

Between:
Mr L Ramos

Appellant

-and-

Hello Services Limited (debarred)

Respondent

EA-2022-001155-AT

Between:
Mr L Ramos

Appellant

-and-

Murat Tchoukour

Respondent

EA-2022-001484-AT

Between:
Mr L Ramos

Appellant

-and-

(1) Clean Therapy Ltd (2) Katarzyna Danso (3) Anna Adamczyk (all debarred)

Respondents

EA-2023-000357-AT

Between:
Mr L Ramos

Appellant

-and-

Thoughtful Supermarket Ltd, t/a Really Happy Chicken (debarred)

Respondent

EA-2023-000834-AT

Between:
Mr L Ramos

Appellant

-and-

(1) Cafe on the Hill (2) Deniz Okcu

Respondents

- -
- -

Hearing date: 11 December 2024

- -

JUDGMENT

APPEARANCES

EA-2021-001064-AT
L Ramos, the **Appellant** acting in person;
Respondent debarred

EA-2021-001131-AT
L Ramos, the **Appellant** acting in person;
Iva Petrovic, Operations Director, for the **Respondent**

EA-2022-000639-AT
L Ramos, the **Appellant** acting in person;
Rad Kohanzad, Counsel (instructed by Croner Group Limited), for the **Respondent**

EA-2022-000642-AT
L Ramos, the **Appellant** acting in person;
Respondent debarred

EA-2022-000645-AT
L Ramos, the **Appellant** acting in person;
Respondent debarred

EA-2022-001155-AT
Mr L Ramos, the **Appellant** acting in person;
No appearance or representations for the **Respondent**

EA-2022-001484-AT
L Ramos, the **Appellant** acting in person;
Respondents debarred

EA-2023-000357-AT
L Ramos, the **Appellant** acting in person;
Respondent debarred

EA-2023-000834-AT
L Ramos, the **Appellant** acting in person;
Deniz Okcu (assisted by a translator), for the **Respondent**

This judgment was handed down by the Judge remotely by circulation to the parties by email and release to The National Archives.
The date and time for hand-down is deemed to be 10:30am on 31 January 2025

SUMMARY

Practice and Procedure

This judgment concerns nine appeals against decisions of the Employment Tribunal ("ET") to transfer the proceedings in the underlying cases to the ET office at Watford. When communicating these decisions, in all but the case relating to Wolf Data Systems, there had been a failure to identify the relevant decision-taker and/or to provide reasons for the decision and, to that extent, the appeals in question would be formally allowed. When considering disposal, however, it was clear that no injustice arose from the transfer decisions and, applying the overriding objective, there could only be one answer: dealing with the proceedings fairly and justly required that the claims be transferred to the Watford office of the ET. As the errors identified could thus have no material effect on the result, it was appropriate, pursuant to section 35 **Employment Tribunals Act 1996**, to exercise the powers of the ET and to confirm each of the transfer decisions made (**Jafri v Lincoln College** [2014] EWCA Civ 449 applied).

THE HONOURABLE MRS JUSTICE EADY DBE, PRESIDENT:

Introduction

1. This appeal concerns the transfer of Employment Tribunal ("ET") proceedings between different regions.

2. In this judgment, when addressing the individual cases, we refer to the parties by name; more generally, however, we use titles (claimant; respondent) as before the ET. Each of these cases comes before us as an appeal against a decision of the ET to transfer the proceedings in the claim in question to the ET office at Watford. Five of the respondents to these appeals have been debarred as having failed to enter a respondent's answer; communications sent to the respondent in EA-2022-001155-AT have been returned undelivered and no representation from the respondent has been received in relation to the appeal in that case. At the hearing before us, the claimant has appeared in person, as he has at all stages of the proceedings save when he was represented by leading counsel (acting under the Employment Law Appeals Advice Scheme; "ELAAS") at a hearing under rule 3(10) **Employment Appeal Tribunal Rules 1993** on 23 November 2023, which concerned the first five appeals before us. The respondent in EA-2022-000639-AT has been represented by counsel, and the respondents in EA-2021-001131-AT and EA-2023-000834-AT have appeared by non-professional representatives of those entities.

Applications made by the claimant at, and after, the hearing

Application to reinstate grounds of appeal

3. In the early hours of the morning of the hearing, the claimant emailed the EAT, attaching a document described as "*a submission about requests due to the fact that Regional Employment Judge Foxwell has not complied with the order of Judge Shanks because he has failed to provide the documents requested by his order*" (what was said to be an "*improved submission*" was then sent at 9.01am). The submission was in fact an application (albeit not made on the relevant application form) for permission to reinstate grounds of appeal previously rejected by His Honour Judge Shanks in relation to the first five appeals before us (and, we should add, by other Judges of the EAT when permitting the remaining appeals to also proceed to a full hearing), by which the claimant had sought to allege that the decisions made by the ET demonstrated victimisation and bias on the part of Regional Employment Judge ("REJ") Foxwell. We addressed this application at the outset of

the hearing of the appeal, providing our reasons for rejecting it at that stage, which are now set out in this judgment.

4. To provide context, when permitting the first five appeals to proceed to a full hearing on 23 November 2022, HHJ Shanks had requested the ET to supply copies of any letters containing requests made to other REJs for claims involving the claimant to be transferred to the ET's Watford office. Due to delays on the part of the EAT administration, however, HHJ Shanks' order was only seal dated (and sent out) on 29 April 2023.

5. REJ Foxwell responded to that request by letter of 8 June 2023 (explaining that this was when the EAT's request was drawn to his attention). We return to the content of that response in our substantive judgment, below. It was, however, the claimant's submission that REJ Foxwell had failed to provide the documents required by the EAT and that his account was not accurate as minutes of meetings of the ET national user group do not record any requests being made to other REJs regarding the claimant's claims. The claimant also says that it is unlikely that the London REJs would have been aware of his claims as, at the relevant time (January 2021), he had "*lodged only a limited number of claims in each of the three other London Employment Tribunals*". The claimant contends that REJ Foxwell's delay in responding to the EAT's order dated 23 November 2022 (and what he describes as REJ Foxwell's failure to "*say the truth*" in saying it had only been drawn to his attention in June 2023), and his failure to then properly comply, provides "*a new and further evidence of victimisation and bias against me*". The original source of this "*victimisation and bias*" is said to derive from the fact that the claimant had previously made a complaint against an employment Judge sitting at Watford; as the relevant REJ, that complaint would have been dealt with by REJ Foxwell.

6. We have no hesitation in rejecting this application to reinstate grounds of appeal dismissed at a hearing in November 2022, as confirmed by order sent to the parties on 29 April 2023. Although it would seem that the EAT only sent REJ Foxwell's response of 8 June 2023 to the parties on 11 October 2023, the claimant has still waited over a year before making this application. Certainly there is nothing "*new*" that would warrant an application being made on the morning of the full hearing to reinstate grounds of appeal that the claimant knew had been dismissed over two years ago. We are, moreover, satisfied that the application is misconceived. REJ Foxwell's explanation makes clear why no further documents were sent in response to HHJ Shanks' request: the subject of the claimant's various ET claims was raised orally at a meeting on 4 January 2021 of London and South East REJs (*not* the national user group); thereafter the transfers took place administratively

by email. As for why the London REJs might have been aware of the claimant's claims, the print-out we have obtained from the ET suggests that some 12 claims had been lodged by the claimant in the London regions at the relevant time and, given the nature of the claims we have seen (written in the same manner, making claims in respect of job advertisements for which no application had been made), it would be appropriate for issues of case management to come to the attention of the relevant REJs.

7. Had the claimant wished to challenge the dismissal of the grounds of appeal that he now seeks to reinstate, the appropriate course would have been for him to make the necessary application for permission to appeal to the Court of Appeal within 21 days of the seal date of the relevant EAT order (as was made clear in HHJ Shanks' order seal dated 29 April 2023). To the extent that the claimant says it was only after receiving REJ Foxwell's response of 8 June 2023 that he considered there was a proper basis for applying to reinstate those grounds of appeal, it would then have been open to him to either apply (out of time) to the EAT for review, or to apply (out of time) for permission to appeal to the Court of Appeal. Instead, the claimant has waited over a year after receiving REJ Foxwell's response to make this application. **For the reasons we have provided, the application to reinstate previously dismissed grounds of appeal is dismissed as being totally without merit**.

Application for further information from the ET

8. Notwithstanding our preliminary ruling on the claimant's application relating to REJ Foxwell's response of 8 June 2023, the claimant then returned to this issue at various points when making his submissions, continuing to repeat his contention that REJ Foxwell failed to comply with HHJ Shanks' request. This ultimately culminated in the claimant requesting that the EAT should now order REJ Foxwell to provide further documentation and/or clarification. We decided to treat this as a separate application, reaching our decision after hearing the claimant's submissions in this regard. For reasons given orally at the hearing, we also refused this application, finding that it was totally without merit. Again, we have set out those reasons in this judgment for ease of reference.

9. The claimant's application for the EAT to order REJ Foxwell to provide further documentation/information – in particular, minutes of the REJ meeting of 4 January 2021 - was made on largely the same grounds as his application to reinstate previously dismissed grounds of appeal: it was his

contention that REJ Foxwell had not been honest in his explanation and that there must be documentation available that he had failed to disclose. Again the claimant suggested that REJ Foxwell had delayed in responding to the EAT and he further complained of the EAT's delay in forwarding the response to the parties.

10. While we can see that the delays on the part of the EAT were unhelpful, we have not been able to investigate why this occurred and have to bear in mind the heavy workload faced by the administrative staff. In any event, the seal date on HHJ Shanks' order makes clear that this was not sent to the ET until 29 April 2023, so it is not correct to say (as the claimant has maintained) that REJ Foxwell's delay was from 23 November 2022 (the date of the rule 3(10) hearing) to 8 June 2023. Moreover, given our experience of the administrative delays in both the EAT and ET, we find it entirely plausible that the EAT's request did not then find its way to REJ Foxwell until early June 2023. We do not draw any inference of undue delay on the part of the REJ. The same cannot, however, be said of the claimant. As the record makes clear, REJ Foxwell's response of 8 June 2023 was sent out to all parties on 11 October 2023; if the claimant considered this raised legitimate concerns as to the content of that response, he could have made an application to the EAT at that stage. We can see no proper reason for the delay in making an application for disclosure of any minutes from the REJ meeting of 4 January 2021. In any event, it is apparent to us that a written record of what transpired at that meeting was sent to the claimant by letter from REJ Foxwell on 19 January 2021, and there is no reason to consider that does other than set out the nature of the discussion, providing an explanation for why the claimant's claims before the different London ET regions were then transferred to the Watford office. **For all these reasons, we refuse this application for an order that the ET provide further disclosure/information; we are satisfied that this is an application that has been pursued vexatiously and is totally without merit**.

Application for recusal and re-hearing

11. Subsequent to the oral hearing in these appeals, by email sent at 4.41pm on Sunday 15 December 2024, the claimant applied for me to recuse myself, asking that his appeals should be re-listed to be heard afresh by another Judge, with new lay members. The grounds relied on in support of that application were put on the following bases (I summarise): (1) I had previously heard appeals brought by the claimant when sitting in Edinburgh in July 2023 (**Ramos v Lady Coco Ltd** [2023] EAT 99), when I dismissed the appeals as being

totally without merit and found the claimant's conduct of that litigation to have been vexatious; (2) as President of the EAT, I decided which Judge would hear an appeal and, therefore, had chosen to preside over the hearing of the current appeals; (3) a Judge should not choose to deal with an appeal because she already knows the appellant; (4) my behaviour during the hearing on 11 December 2024 confirmed the appearance of bias (in this regard, the claimant alleges that I spoke to him in a hostile manner, and on one occasion replied to him in an aggressive way, shouting at him to "*Not bring this back again*").

12. As this is an application that has been made when the appeals were already before the full panel, I have sought the views of Mr Aziz and Mr Torrance; the following constitutes the unanimous decision of the three of us.

13. First, it is a matter of record that I presided over the hearing of the claimant's appeals in **Lady Coco**. The claimant would, of course, have been aware of that fact when the EAT cause list was published (in the normal course, the cause list is published towards the end of the week preceding any listing), making it clear that I was due to preside over the current appeals; no application for recusal was made in advance of the hearing. Similarly, the claimant made no application for recusal at the hearing on 11 December 2024 itself; rather he waited until after the weekend after the hearing, notwithstanding that it had been made clear that the panel would be starting its deliberations immediately after the oral submissions had been completed. Most pertinently (and in any event), as is apparent from my judgment in the **Lady Coco** case, my rulings in those appeals related to the claimant's conduct of that litigation. I was not required to form any view as to the merit of the appellant's appeals (or his conduct of the litigation) in the nine matters that are now before us, and I did not do so. In the circumstances, there were no proper grounds on which I was required to recuse myself from sitting on the EAT panel in the current appeals.

14. Secondly, it is incorrect to say that I chose to preside over these appeals. Although the listing of cases is a judicial function, the day-to-day compilation of the list is delegated to the administrative staff of the EAT. On permitting an appeal to proceed to a full hearing, a Judge will assign it to a category and will make other directions, which will enable the listing staff to allocate the matter – in accordance with the directions that have been given - to a Judge available to preside over the hearing on the day or days in question. As is entirely standard, this matter was duly allocated to me as one of the available Judges for this listing.

15. As for the suggestion that the claimant was treated in a hostile manner and/or that I was aggressive towards him or shouted at him, this is not the perception of any member of the panel nor is it demonstrated by listening to a recording of the hearing: I maintained the same volume and tone throughout the hearing and, notwithstanding the need to ensure that Mr Okcu (who was positioned some way back in the court in order to be able to sit next to the translator) could hear what I was saying, I did not raise my voice in any way that could be construed as shouting. Although I announced our two decisions, adverse to the claimant, during the course of the hearing, that was not treating the claimant in a hostile manner; it was merely explaining the decisions reached on his applications. Similarly, although there were occasions when I had to ask the claimant not to interrupt me, this was part of the case management of the hearing, it could not reasonably be construed as hostility towards the claimant.

16. We note that the complaints made to support the application for recusal could have been, but were not, made during the hearing itself. The lack of any proper basis for the allegations made (the claimant would have been aware, for example, that no-one shouted at him during the hearing) would have been apparent to the claimant. In the circumstances, **the application for recusal is refused, and we can only conclude that it has been made vexatiously and is again to be characterised as being totally without merit**.

The relevant history

The background

17. As the list of appeals before us makes clear, the claimant has brought a large number of ET claims against a variety of businesses. The respondents are usually (although not exclusively) small businesses that have advertised a vacancy using language that might suggest discrimination on the basis of a protected characteristic. In an earlier case, **Ramos v Nottinghamshire Women's Aid Ltd and anor** [2024] EAT 67, in dismissing the claimant's three appeals in those proceedings as totally without merit, His Honour Judge James Tayler described the position as follows:

> "Mr Lorenzo Ramos, also known as Lorenzo Garcia, is a serial litigant in the Employment Tribunals and the EAT. His modus operandi has been to find advertisements on the internet, that appear to be discriminatory, for jobs up and down the British Isles, and then bring claims in the Employment Tribunals, often without having applied for the job. It might be said that employers who do not take care with their job advertisements have only themselves to blame. But Mr Ramos does not act for the public good, he claims loss of earnings and injury to feelings. The wide geographical scope and variety of roles for which Mr Ramos applies puts in question

whether he really wishes to be appointed. That question was answered firmly in the negative by the Employment Tribunal in Scotland in **Mr L Ramos v Lady Coco Ltd t/a Shamela's Fresh Hot and Cold Food** 4110531/2021 where the three members of the Employment Tribunal unanimously concluded (para 32):

> "In short, the Tribunal was satisfied from the evidence presented that the claimant had no genuine desire of applying for the role the respondent had advertised. He was solely using the Tribunal process to seek money from the respondent.""

18. As that extract from HHJ Tayler's judgment makes apparent, the claimant has brought a large number of ET claims throughout Great Britain. The present appeals all relate to claims filed in one of the three London regions (London East, London Central, London South); each case was transferred to the ET South East Region. As at March 2023, 52 claims brought by the claimant were held by the ET South East region. Following a request made by the EAT to the Watford ET office for the purposes of this hearing, we understand that some 66 claims by the claimant appear on the records. We understand that these relate to claims brought by the claimant in London and the South East, and do not include claims brought in other regions, or claims brought before the ET in Scotland. In addition, according to the records held by the EAT, some 42 appeals have also been pursued by the claimant.

19. Although, as illustrated by the judgment in the **Nottinghamshire Women's Aid** case, many of the claimant's claims and appeals have been dismissed (some being held to be totally without merit), that is not true of all. In the cases that are now before us, no decision has been taken on the merits and the summary that we provide in each instance is simply taken from the claimant's ET1 and statement of claim.

The claims in these appeals

20. In the claim against **Wolf Data Systems Ltd** (presented on 27 November 2020, and initially assigned to the London Central ET), the claimant complains about what are said to have been two discriminatory advertisements, one for the position of "*Female Telesales Agents*" and another for the position of "*Female Managed print & IT Telesales Agent*". It does not appear that the claimant applied for either position, but he makes clear his case that that would not have been necessary in order for him to make a claim under the **Equality Act 2010**. In setting out his claim, the claimant refers to various authorities, showing (as he put it): "*that awards for injury of feelings for direct sex discrimination are very high*". Within his ET1, the claimant

claims some £8,100 by way of financial losses over a six month period, with an additional £4,850 for injury to feelings. His statement of claim ends as follows:

> "9. **I advise the Respondent to conciliate for the following reasons:**
> a) The Respondent should be realistic and accept that he has made a mistake by posting these two discriminatory adverts and accept to conciliate
> b) The Respondent should understand that any money paid to me within an Acas conciliation agreement would not be money wasted because of the feedback it has received from me which enable him to improve his recruitment process
> c) The Respondent has posted two discriminatory adverts and not only one i.e. one for the position of "Female Telesales Agents" and another for the position of "Female Managed print & IT Telesales Agent"
> d) It is direct discrimination and not only indirect discrimination"

21. The claim against **Chalcot House Services** (presented on 9 December 2020, and also initially assigned to London Central ET) is said to relate to a "*discriminatory advert for a female domestic cleaner*". It would again seem that the claimant made no application for the position in question, complains about the content of the advertisement. Having again referred to what he describes as the "*very high*" level of awards for injury to feelings, the claimant claims £4,775 by way of financial losses over a six month period, plus £4,850 for injury to feelings. The statement of claim in this case ends with the claimant again advising the respondent to conciliate, repeating the points made at paragraph 9 a) and b) in the Wolf Data proceedings.

22. As for the claim against **Maid Solutions** (presented on 4 January 2021, and initially assigned to the London South ET region), the claimant's case relates to what are said to have been "*two discriminatory advert [sic]*", the first made on 18 August 2020, the second on 5 October 2020, which stated that the company was looking for "*a Polish or Bulgarian female cleaner*". As before, the claim seems to be limited to the content of the advertisements; it does not appear that the claimant applied for either position. The details of the claimant's case are set out in a statement in almost identical terms to the earlier cases we have described, with a similar reference to the "*very high*" awards for injury to feelings made in such proceedings and similar advice to the respondent to enter into conciliation. In this instance, the claimant seeks financial losses of £2,808 for a period of six months loss of earnings, plus (once again) an award of £4,850 for injury to feelings.

23. In his claim against **Lulu's Bistro** (presented on 4 October 2021, and also initially assigned to London South region), the claimant complains about what is said to have been an advertisement for a "*Female Hot Dog Vendor*". In the statement of claim in this case, the claimant says he was "*deterred from applying to this position by the discriminatory contents of the Respondent's advert*", explaining that he would not apply for a post where he does not meet all the criteria as this would risk misuse of his confidential information and would

also take up his time ("*I cannot afford to waste time replying to discriminatory adverts for positions*"). Again referring to the "*very high*" awards made for injury to feelings, the claimant submits that he suffered financial losses for a six month period, in the sum of £8,125, and again claims £4,850 for injury to feelings.

24. The claim against **Hello Services** (presented on 15 November 2021, and, similarly, initially assigned to the London South ET region) is said to relate to an advertisement for a "*Office administrator job at a home servicing company (female worker needed)*". In his statement of claim, the claimant again makes clear that he has not applied for the position, explaining that this was because he was not female, because he considered data safety issues would arise in relation to his confidential information, and because it would not be cost effective in terms of his time. Having again referred to the "*very high*" awards made for injury to feelings in discrimination claims, on this occasion the claimant makes no claim for financial losses but seeks £8,800 for injury to feelings. The claimant further states that the director of the company should be added as an individually named respondent "*in case the Employment Tribunal awards me a compensation and the company Hello Services Limited does not have enough money to pay me this compensation I can claim also against its director*".

25. In his claim (presented on 31 August 2022, and also initially assigned to the London South region) against **Murat Tchoukour** (who seems to have been the director of a company called *"The Cooffee Club Ltd"*), the claimant states that his complaint relates to an advertisement for a "*Female Waitress*". His statement of claim also seems to refer to a requirement of speaking Bulgarian, Romanian or Albanian, although it is unclear whether this actually relates to the advertisement in issue or whether it is imported from a different claim; certainly large parts of the statement are taken from other proceedings, with similar points being made to those we have already referenced above. Again the claim in this case is limited to injury to feelings, although this time the level of award is put at £9,100.

26. The proceedings relating to **Clean Therapy Ltd and others** (presented on 28 July 2022, again initially assigned to the London South region) involve a complaint about and advertisement for "*a reliable, trustworthy, energetic local females who likes cleaning and take pride in their job*". The claimant's statement of claim is written in similar terms to the other cases we have referenced and again limits the claim for damages to an injury to feelings award in the sum of £9,100.

27. The claim against **Thoughtful Supermarket Ltd** (presented 2 March 2023, also initially assigned to the London South region) is said to relate to an advertisement for "*Female Kitchen Staff*". In his statement of claim the claimant says that he saw the advertisement on 22 September 2022, and applied the same day, only to be rejected on 24 September 2022 "*because I am not a female*". Making no claim for financial losses, the claimant again claims the sum of £9,100 for injury to feelings.

28. Finally, in his claim against **Cafe on the Hill** (presented on 14 January 2023, initially assigned to the London South region), the claimant complains about an advertisement for a "*Female Waiter*". This would again seem to be a claim arising from the content of the advertisement, without the claimant having actually applied for the job, and the statement of claim is written in similar terms to the previous cases we have referenced, with compensation being limited to the sum of £9,100 for injury to feelings.

The transfer decisions

29. As we have already noted, in each of these cases, the claimant's appeal relates to the transfer of the ET proceedings from one of the ET London regions to the office at Watford, which falls within the South East region. The background to these transfers is made apparent from the explanation provided by REJ Foxwell (the REJ for the ET South East region) in his letter to the EAT of 8 June 2023 (this resulted from the request from the EAT, made as part of the current proceedings, to which we have referred above), as follows:

> "I had raised a question about an unusual pattern and quantity of claims from the claimant at an REJ meeting on 4 January 2021 and asked whether other REJ's *[sic]* had received similar claims. The then REJ's *[sic]* for the three London regions responded positively identifying similar claims in their regions. I offered to accept them so that they could be managed together; this was done by exchange of email. These discussions are reflected in my letter of 19 January 2021. Subsequently, the REJ's *[sic]* from these Regions transferred other of the claimant's claims to the South East Region without specifically seeking my consent to accept them (which I would have given in any event). I cannot say whether this process captured all of the claimant's claims presented in the London regions as this would depend on each claim coming to the attention of the REJ's *[sic]* ..."

30. The letter of 19 January 2021 to which REJ Foxwell refers was sent to the claimant under his name "*Mr Garcia*". That letter is not, of itself, the subject of an appeal before us and it does not specifically relate to any of the cases with which we are concerned. It is, however, an important communication, which sets out the reasons for transferring cases brought by the claimant in the London ETs to the office at Watford.

31. The background to the letter of 19 January 2021 is provided by some of the other correspondence filed by the claimant when lodging the current appeals. From that material, it is apparent that, by letter of 26 August 2020, REJ Foxwell communicated his decision that three separate claims brought by the claimant in the Watford ET were to be combined for hearing together. Subsequently, in January 2021, four claims brought by the claimant in the London East ET were transferred to the Watford ET and were consolidated with the proceedings that had already been combined for hearing. That transfer appears to have been questioned by the claimant, by email of 15 January 2021 (which we have not seen). The letter of 19 January 2021 then provided REJ Foxwell's response, which explained (so far as relevant for present purposes) as follows:

> "Your email of 15 January 2021 to the East London office of the Employment Tribunal has been referred to me as the judge who requested the transfer of the above cases here.
> I have asked Regional Employment Judges Taylor, Wade and Freer for your claims currently proceeding in the London East, London Central and London South Regions respectively to be transferred here. I have done so as these claims do, or may show common features with the claims you have brought in the Employment Tribunal's South-East Region.
> I consider that, at the very least, the respondents to your claims should be aware that you have other similar claims in the system and of the possibility, therefore, that you may achieve double-recovery in respect of any successful claim for loss of earnings (which you pursue in each of the cases I have seen so far).
> It is concerning that you have not voluntarily disclosed the fact of your other claims in your various proceedings because of their obvious relevance to any remedy you might receive.
> I have directed that the claims ... are to be consolidated ... to be heard by a judge to determine whether all or any part of them should be struck out or made the subject of a deposit order having regard to the following:
> (1) each claim involves similar facts;
> (2) the claimant in each case gives the same PO Box address but the claimant's name given in the claim forms differs between Mr Ramos or Mr Garcia; the Tribunal must consider whether this is just one person and, if so, why he uses different names in different claims;
> (3) Mr Garcia made a similar claim in case 3318988/2019 (Garcia v The Gift Corner 3 Wishes Limited) which was dismissed and in which adverse findings were made about his credibility and the genuineness of the claim;
> (4) the claimant in the current claims makes no reference to the other current ones despite their relevance due to the obvious risk of double-recovery were he to succeed in more than one of them;
> (5) while it will be a matter for the judge hearing the case to decide, the above factors suggest that these claims are not based on genuine job applications and should therefore be struck out as an abuse of process or, alternatively, made the subject of a deposit order because they stand little prospect of success. Such orders cannot be made without a hearing.
> (6) The Tribunal has made these orders of its own motion because it is unlikely that the individual respondents will be aware of one another, of the similarities between their cases and/or the link between Mr Garcia and Mr Ramos."

32. In the case relating to **Wolf Data Systems**, on 15 July 2021 the parties were told that REJ Wade (REJ for London Central region) had directed that hearings would be postponed and the case transferred to Watford ET for case management purposes; the reasons for that decision were said to be those provided in REJ Foxwell's letter of 19 January 2021 (which was also attached).

33. At 11.30 pm that evening, the claimant applied to the ET for the transfer to be cancelled, saying that REJ Foxwell's decision of 19 January 2021 was "*an old order*", only concerning "*a small number of claims*":

> "a) Hence, a recent order is needed to transfer my claims
> b) And as a consequence this old order cannot justify that REJ Wade persecutes me for the rest of my life by disrupting the normal processing of any claims that I need to issue by transferring them to Watford ..."

And further contending that REJ Foxwell's reference to "*double recovery*" could not justify the transfer of the claims as it was "*highly hypothetical*".

34. In responding on 16 July 2021, REJ Wade explained:

> "The original January letter concerned only those cases which were known about at the time, but the principle remains the same which is to avoid a risk of double recovery. You (Mr L Garcia/ L Ramos) have brought a number of claims since January, not all of which have been transferred because the Regional Judges were not aware of them, but in future all claims will be transferred to Watford."

35. On 19 July 2021, a letter was sent to the parties confirming the transfer of the proceedings to the ET office at Watford. The claimant's appeal is made against this letter.

36. Subsequently, by email of 15 August 2021 to the London Central ET, the claimant set out what he said characterised as "*Further evidence concerning my request dated 15 July 2021 to cancel the transfer ... of my claim to Watford [ET]*". The claimant then set out his assertion that REJ Foxwell had victimised him for having previously made a complaint about an Employment Judge at Watford ET. We do not know if the claimant received a response to that email but it would be unsurprising if there was no response from the London Central ET given that the proceedings had been transferred to Watford by that stage.

37. Also by letter of 19 July 2021, the parties were notified that the file in the claim against **Chalcot House** had been transferred to the ET office at Watford. Letters confirming the transfer of the claims brought against **Maid Solutions**, **Lulu's Bistro**, and **Hello Services Ltd** were sent out on 23 March 2022 ; that relating to the case against **Clean Therapy and others** on 2 September 2022, and that relating to the claim against **Murat Tchoukour** on 6 September 2022 (the letter in this regard confirming that the claim was being transferred to the Watford office "*as directed by Judge Balogun*"). The transfer of the proceedings brought against

Thoughtful Supermarket Ltd was confirmed by letter of 20 March 2023, and that relating to **Cafe on the Hill** by letter of 22 June 2023.

38. In each of these cases, the claimant's appeal is made against the letter confirming the transfer of the proceedings to Watford ET. Save as we have expressly set out above, those letters did not identify the name of any Employment Judge making the decision on transfer, and did not provide any reasons for the transfer.

39. As we have already noted, in the case involving Wolf Data, the claimant emailed to protest against the transfer of the proceedings, receiving the response from REJ Wade of 16 July 2021, prior to the letter confirming the transfer. We have also seen emails from the claimant, dated 6 and 9 May 2022, relating to the transfer of his claim against Hello Services Ltd, in which he requested that the "*order of transfer*" be revoked. The claimant has told us that he never received any response to that request. We also understand the claimant says that he made similar requests in other proceedings, similarly without receiving any response. We will return to this point below.

The issues raised by these appeals

40. At a hearing under rule 3(10) **EAT Rules 1993** on 23 November 2022, His Honour Judge Shanks permitted the appeals in the first five matters before us to proceed to a full hearing.

41. At the rule 3(10) hearing, the claimant was represented by leading counsel, appearing under ELAAS, who advanced grounds of appeal as follows: that the decisions to transfer these five claims (i) do not name the Judge who made the decision; (ii) do not give any reasons; and (iii) should not have been made without affording the claimant a reasonable opportunity to make representations. These points have also been permitted to proceed in relation to each of the other appeals before us. It is convenient to refer to these points as **Ground 1**.

42. HHJ Shanks also allowed some additional grounds, as set out in the original notices of appeal, to proceed in the cases involving Lulu's Bistro and Hello Services. These largely make the same points as those identified in Ground 1, but, also make the following complaints: (1) that the transfer did not include any reference to an order from Watford ET requesting the transfer (something we consider can sensibly be addressed as an additional part of Ground (1)); and (2) that the transfer had disrupted the normal processing of

the claims, extended the length of the proceedings, increased costs, and could lead to the disclosure of confidential information about the claimant - we have grouped these matters together as **Ground 2**.

43. HHJ Shanks otherwise dismissed the claimant's proposed grounds of appeal, specifically rejecting the following points of complaint:

(a) the suggestion that the transfers were due to victimisation or bias, whether relating to a complaint the claimant had made about a particular Employment Judge at Watford or otherwise: HHJ Shanks found there was no proper basis for this suggestion;

(b) the claimant's contentions that (i) hearings could not be listed together unless there was a common respondent, (ii) he could not be required to disclose claims he might have against other respondents; (iii) claims were allocated to specific ET offices according to the residence of the respondence, and (iv) that there was no legal basis for a transfer of his claims to the South East region: HHJ Shanks finding these arguments were "*just wrong*";

(c) that: (i) he could not receive a fair hearing in Watford from a Judge dealing with numerous claims, (ii) a case cannot be transferred if it will extend the proceedings, and/or (iii) fairness requires his claims be dealt with by different ETs and Judges: HHJ Shanks again finding there was no basis for these suggestions.

44. The remaining appeals were similarly permitted to proceed to a full hearing by other Judges of the EAT on the same grounds as those allowed by HHJ Shanks (similarly dismissing all other grounds). In each case, it was directed that the appeal should be combined for hearing with the original five.

45. In EA-2023-000834-AT, however, by order seal dated 15 September 2023, Judge Stout initially stayed the appeal, to allow the claimant the opportunity to make a reconsideration application to the ET and to apply (out of time) for written reasons for the decision (as communicated by letter of 22 June 2023). In so directing, Judge Stout identified that this was an appeal against a case management decision (albeit one that could only be made by the ET President or REJ), and explained:

> "... it seems to me that the proper course, and that most consistent with the overriding objective including avoiding delay, expense and unnecessary use of tribunal time, is for the claimant first to write to the London South asking for a review of the decision and reasons for the decision. ... Providing that London South does review its decision and produce a new decision within that timeframe, the present appeal is likely to be rendered academic (pointless) so that permission to appeal would then be refused (if the appeal was not withdrawn by the appellant). ..."

46. The claimant did not, however, adopt the course suggested, and (by email of 21 October 2023) requested the order be revoked or amended "*because it asked me to do something which is impossible to do*":

> "it is impossible for me to make these two applications at the same time because before I made the application for reconsideration I need to be provided with the reasons ... to decide whether or not to make an application for reconsideration ... Moreover, we have to accept the reality which is that my application for reconsideration will be very out of time ..."

47. By further order, seal dated 6 November 2023, Judge Stout lifted the stay and directed that this appeal proceed to a full hearing, along with the eight earlier appeals before us. Addressing the points made by the claimant, however, Judge Stout opined:

> "I initially considered that the proper course, and that most consistent with the overriding objective including avoiding delay, expense and unnecessary use of tribunal time, was for the claimant first to write to the London South asking for a review of the decision and reasons for the decision and I stayed the appeal for 28 days to allow that to happen. Unfortunately, the claimant failed to take that course for reasons that I consider were spurious. He took the view that he could not make an application for review without first obtaining the Tribunal's reasons, but that was clearly no obstacle as it did not prevent him appealing or setting out his submissions to the Tribunal as to why the transfer order should not have been made. He also considered he would have been out of time, but he would not as the application is for a review of a case management order under Rule 29 to which no time limit applies. Despite the claimant's failure to take the opportunity I gave him, which is to be deprecated, as I am now aware that there are other appeals proceeding to a full hearing on this point, I grant permission for this appeal to join those other cases."

The legal framework

48. Proceedings before the ET are governed by the **Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013** ("the 2013 Regulations"). By regulation 4 it is provided that:

> "There are to be tribunals known as employment tribunals."

49. Regulation 5 then establishes the office of President of Employment Tribunals for England and Wales (making separate provision for the President of Employment Tribunals for Scotland). By regulation 6, provision is made for the appointment of Regional Employment Judges.

50. By regulation 7, the responsibilities of the ET President and REJs are set out as follows:

> "(1) The President shall, in relation to the area for which the President is responsible, use the resources available to- (a) secure, so far as practicable, the speedy and efficient disposal of proceedings; (b) determine the allocation of proceedings between Tribunals; and (c) determine where and when Tribunals shall sit.
> (2) The President ... may direct Regional Employment Judges ... to take action in relation to the fulfilment of the responsibilities in paragraph (1) and the Regional Employment Judges ... shall follow such directions."

51. By regulation 11, it is provided that the President may make practice directions about ET procedure; such practice directions supplement the rules that are contained within the **2013 Regulations**.

52. Schedule 1 to the **2013 Regulations** sets out the rules of procedure that apply to all ET proceedings ("the ET Rules"). By rule 1(1) "*Employment Tribunal*" is defined as meaning:

> "an employment tribunal established in accordance with regulation 4, and in relation to any proceedings means the Tribunal responsible for the proceedings in question, whether performing administrative or judicial functions."

53. By rule 8, provision is made for the presentation of a claim, stating that:

> "(1) A claim shall be started by presenting a completed claim form (using a prescribed form) in accordance with any practice direction made under regulation 11 ..."

54. Rule 85 further provides:

> "(2) A claim form may only be delivered in accordance with the practice direction made under regulation 11 which supplements rule 8."

55. At the relevant time, for claims brought in England and Wales, by presidential practice direction it was duly provided that a claim form might be presented on-line, or by post to the ET central office in Leicester, or in person to one of the regional tribunal offices listed in the schedule. There was (and is) no requirement that the claim was to be presented to any particular office based on the regional location of one or more of the parties. Upon receiving a claim, rule 85 then provides:

> "(3) The Tribunal shall notify the parties ... of the address of the tribunal office dealing with the case ... and all documents shall be delivered to either the postal or the electronic address so notified. The Tribunal may from time to time notify the parties of any change of address, ..."

56. The ET Rules are silent as to how the allocation of a claim to a particular office will be determined. The guidance provided on the www.gov.uk website states (under the sub-heading "*Going to a tribunal hearing*") that:

> "Cases are normally held at the employment tribunal office closest to where you worked. ..."

but this is not the subject of any rule and, as made clear by the case-law, there is no right to have a claim managed, or heard, in any particular office or region.

57. In **Berrendero v Suffolk Area Health Authority** UKEAT/0365/81 the claimant sought to challenge the refusal by the ET at Bury St Edmunds to transfer the case back to the London ET, where it was originally presented. Dismissing the appeal, the EAT (Browne-Wilkinson P (as he then was) presiding) made clear that:

> "... the power to fix the venue of a hearing is within the discretion of the regional chairman. ..."

stressing that the EAT:

> "... will not interfere with the exercise by the regional chairman of his discretion, unless it is demonstrated that he has exercised his discretion in a way which no chairman, properly directed, could have done on the basis of the information before him."

58. Similarly, in **Faleye and anor v UK Mission Enterprise Ltd and ors** UKEAT/0359/10, the EAT (Underhill P (as he then was) presiding) again emphasised the broad discretion afforded to the ET in determining where claims are to be located for case management and hearing purposes:

> "15. In any event, however, even if it were thought that the case for transferring the two London South cases to London Central was rather thin, the decision would have to give rise to a real risk of injustice before this Tribunal would intervene. The practice whereby claims are required to be presented to a particular office by reference to the postcode of the claimant's place of work, and are thereafter managed and heard in that office, is no more than that - a practice. It is not prescribed by the Employment Tribunal Rules, or any other statutory instrument. It is not even, as I understand it, the subject of a formal Practice Direction. It gives rise to no question of jurisdiction. It follows that transfers between regions can be freely made for any reason that seems good to Regional Employment Judges, subject only to any question of the transfer giving rise to injustice. Such injustice can sometimes arise when the prima facie correct tribunal office is remote from where one or both parties reside or are based. But there is nothing of that kind here. ... Neither before the Tribunal nor before me has Mr Ogilvie [for the claimants] been able to identify any specific prejudice to the Appellants in having their case heard in Kingsway rather than in Croydon. He seemed to think that there was some fundamental right in a claimant in the employment tribunal to have his or her case managed and determined in the tribunal region which covers his place of work, and that on that basis the appeal raised, as he put it in his skeleton argument, "a point of fundamental importance which affects tens of thousands of cases right across the country". With all respect to him, this is a nonsense. There is no such right."

59. In oral argument, Mr Kohanzad initially relied on this passage in **Faleye** to support his submission that issues of allocation to, and transfer between, ET offices were purely administrative acts, giving rise to no judicial decision requiring reasons to be provided by the ET. Upon further reflection, however, he accepted that might not be an accurate characterisation of the position relating to the transfer of proceedings, noting, in particular, that the decision in **Faleye** took the form of a case management order made by the ET.

60. In any event, however, it is clear that the ET is afforded a broad discretion in its case management of proceedings, and by rule 29 **ET Rules** it is provided:

> "The Tribunal may at any stage of the proceedings, on its own initiative or on application, make a case management order. … the particular powers identified in the following rules do not restrict that general power. A case management order may vary, suspend or set aside an earlier case management order where that is necessary in the interests of justice, and in particular where a party affected by the earlier order did not have a reasonable opportunity to make representations before it was made."

61. A "*case management order*" is defined under rule 1(3), as being:

> "an order or decision of any kind in relation to the conduct of proceedings ..."

62. Where the ET makes a decision without a hearing, it is required to communicate that decision to the parties in writing, identifying the Employment Judge who has made it (rule 60). As for the obligation upon the ET to give reasons, by rule 62 it is provided:

> "(1) The Tribunal shall give reasons for its decision on any disputed issue, whether substantive or procedural (including any decision on an application for reconsideration ...).
> (2) In the case of a decision given in writing the reasons shall also be given in writing.
> ...
> ...
> (4) The reasons given for any decision shall be proportionate to the significance of the issue and for decisions other than judgments may be very short.
> ..."

63. More generally, in exercising its powers under the **ET Rules**, an ET (assisted by the parties) is required to seek to give effect to the overriding objective, as provided by rule 2:

> "The overriding objective of these Rules is to enable Employment Tribunals to deal with cases fairly and justly. Dealing with a case fairly and justly includes, so far as practicable— (a) ensuring that the parties are on an equal footing; (b) dealing with cases in ways which are proportionate to the complexity and importance of the issues; (c) avoiding unnecessary formality and seeking flexibility in the proceedings; (d) avoiding delay, so far as compatible with proper consideration of the issues; and (e) saving expense.
> A Tribunal shall seek to give effect to the overriding objective in interpreting, or exercising any power given to it by, these Rules. The parties and their representatives shall assist the Tribunal to further the overriding objective and in particular shall co-operate generally with each other and with the Tribunal."

The claimant's submissions

64. In his submissions, the claimant has focused on the account provided by REJ Foxwell (as set out in his letter of 8 June 2023), objecting that there were no orders, only "*secret and private correspondences*"; as such, these were only "*personal decisions*" made by REJ Foxwell, "*not official orders*". Relying on points made at the rule 3(10) hearing, the claimant complains that each of the decisions under appeal were local implementations of a general request made by REJ Foxwell to the REJs of the three London regions, but, in

each case, his view was not sought prior to the decision to transfer, and the letters confirming the transfer did not identify the relevant decision-taker (contrary to rule 60 **ET Rules**) and (contrary to rule 62) did not provide reasons for that decision. The claimant says that case management orders made without giving a party a reasonable opportunity to make representations must be capable of meaningful challenge; that was consistent with the rulings of the EAT in **Berrendero** and **Faleye**, and was in keeping with the open justice principle. He further contends that the decision made by REJ Foxwell was unlawful and should be treated as void: he had been prejudiced because he had been unable to appeal against the decision as he did not know when it had been made, and similarly he was unable to apply for a reconsideration.

65. Resisting the arguments of Mr Kohanzad for Maid Solutions, the claimant submitted that a transfer from one ET region to another was different to the initial assignment of a case to a particular ET office. He further contended that it was in the interests of justice that his claims were dealt with by different ET offices, not least as it would be difficult for one ET to deal with a large number of claims, and argued that the reasons for the original transfer decision, as set out in the letter of 19 January 2021, could not withstand scrutiny: the issue of double recovery did not arise at this early stage of the proceedings, and there was no requirement on a claimant to disclose the fact that he had made other claims when these had not been brought against the same employer. Moreover, the claimant pointed out that the transfer decisions had led to the postponement of hearings and had caused delay in the proceedings, which would not be in the interests of justice as it would mean that witness memories would fade.

66. Subsequently replying to points made orally by Mr Kohanzad, the claimant said it was wrong to say that the letter of 19 January 2021 was not an order when it was clear that it was communicating a case management decision. Standardly, when the ET sent out an order, this would be accompanied by a letter explaining rights of appeal and reconsideration; that was not done in this case. This, the claimant says, had a real consequence for him: although Mr Kohanzad had argued that he ought to have applied for reconsideration, the letter of 19 January 2021 was not accompanied by guidance as to the right to make such an application, and the later letters confirming the various transfers did not identify the Judge, still less give reasons for the decision/s. In any event, the claimant says that he did make applications for reconsideration but received no response (in this regard, the claimant produced the correspondence in the Hello Services case to which we

have referred above, but said he had been prejudiced by not being put on notice of this point earlier (saying he would have put all the relevant documents before the EAT if this had been raised earlier)).

The position of the respondents

67. Addressing the objection that the letter of 23 March 2022 (confirming the transfer in Maid Solutions) had not given the name of the relevant Employment Judge (contrary to rule 60), Mr Kohanzad said that would depend on whether this was a "*decision*" of the ET. Initially submitting that it should not be seen as a case management order but merely an administrative function (akin to the initial allocation of a case to a region), Mr Kohanzad said that even if that was not correct, then the letter of 19 January 2021 should be seen as communicating the case management decision in issue, with the subsequent letter (as the claimant would have understood) being merely the administrative execution of that decision. As for any failure to give reasons: (1) initially there was no reason to consider that the claimant should take issue with the transfers, so, as there was no dispute, rule 65 was not engaged; (2) in any event, the letter of 19 January 2021 did provide the reasons.

68. Turning to what were said to be the consequences of the transfer decision(s) for the claimant, Mr Kohanzad said that, to the extent that any transfer of proceedings might give rise to a real injustice, it would be open to the party concerned to apply for a reconsideration; that was the course that ought to have been adopted by the claimant in these cases. Otherwise, the ET ought to be able to get on with the progression of the claims before it, addressing objections as and when they were raised by the parties. The letter confirming the transfer of the proceedings could be seen as akin to the provision of a formal judgment, such that the parties could, if considered necessary, then ask for written reasons and/or could apply for the ET to reconsider the underlying decision.

69. Ms Petrovic (for Chalcot House) and Mr Okcu (in the Cafe on the Hill case) did not seek to make any separate submissions.

Analysis and conclusions

70. In addressing the points raised by these appeals, the starting point has to be to identify the decision (or decisions) under challenge. In each case, the claimant's appeal is against the letter sent out to him confirming the transfer of his claim to the ET Watford office. It is apparent, however, that in each instance, the transfer

implemented a decision taken in the early part of January 2021, when the REJs for the three London regions and for the South East region agreed that similar claims issued by the claimant in those regions would all be case managed together at the ET Watford office. That decision had been communicated to the claimant, in the letter from REJ Foxwell of 19 January 2021. Although that letter was specifically addressed to the claimant's claims "*currently proceeding in the London East, London Central and London South Regions*", it is clear that the subsequent transfers of other claims (including each of the nine that are the subject of these appeals, albeit, as at 19 January 2021, only three of them had been issued) followed this earlier decision and were made for the same reasons.

71. In seeking to resist the claimant's appeal, Mr Kohanzad initially submitted that the transfers were to be viewed in the same way as the initial "*fixing of a claim*", which was an "*administrative decision*" and, save where a transfer was made as a result of specific application, did not require the giving of any reasons. Without wishing to over-complicate matters, we are, however, not convinced that the position is quite so straightforward.

72. We can accept that the initial allocation of a claim to a particular ET office is likely to be a purely administrative action, no doubt following the convention (albeit this is not the subject of any presidential direction, still less any provision under the **ET Rules**) that claims will be allocated by reference to the postcode of the claimant's place (or former place) of work. The location of ET offices, and the way in which work is allocated to particular locations, is a matter within the very wide discretion afforded to the ET President (which may be delegated to REJs) under regulation 7 of the **2013 Regulations**. Plainly, however, the particular allocation of an individual claim will require no decision on the part of the ET President (or any REJ); unless and until an issue arises in relation to the proceedings in question, this will be a purely administrative function that will not engage the provisions of rules 60 and 62. Indeed, as rule 85 **ET Rules** makes clear, the only requirement is that the ET notify the parties of the address of the office that will be dealing with the case (and of any change in that address); there is no suggestion that this involves a judicial decision that will engage the requirements of rules 60 or 62.

73. We can also see that there may be instances where the transfer of a case from one office to another is similarly a purely administrative function; that would no doubt be the case, for instance, if an office had to be closed and its case-load transferred. Where, however, the transfer results from some active judicial

intervention, then we consider that is a case management decision which should thus be communicated in writing to the parties (assuming the decision to have been made without a hearing), identifying the Judge who made it (per rule 60). In the claim brought against Wolf Data Systems, that was done. Although the claimant appeals against the subsequent letter (of 19 July 2021), confirming the transfer, it is apparent that the decision made by REJ Wade was communicated to him in writing on 15 July 2021, not only identifying the relevant decision-taker but also providing the reasons for that decision. Similarly, in relation to the claim against Murat Tchoukour, the letter informing the claimant of the transfer also identified the relevant decision-taker ("*as directed by Judge Balogun*"), albeit it did not set out any explanation of the reasons for the decision. In the other cases before us, however, we have not seen any letter identifying the Judge who made the transfer decision. The question is whether that amounts to an error of law. Additionally, save in the Wolf Data Systems case, was it wrong for the communications to the claimant to merely state the fact of the transfer without providing reasons?

74. In answering these questions, we consider the communications sent to the claimant have to be seen in context. It is, therefore, relevant that the claimant had already received REJ Foxwell's letter of 19 January 2021 and was aware that the decision had been taken (identifying REJ Foxwell as the relevant decision-taker) that his claims in the London and the South East regions should be dealt with together at the ET office at Watford. The reasons for that decision had been explained and, on one view, the information required under the **ET Rules** had thus been provided. Having regard to the overriding objective, and the need to try to avoid unnecessary formality, we can see that it might be thought that this should be sufficient. On the other hand, however, it is also relevant to note that, other than the specific cases referenced in the letter of 19 January 2021 (not any of the cases now before us), other parties to the proceedings in question would not have known who had made the decision to transfer the case and would not have been aware of the reasons for that decision. Moreover, as REJ Foxwell's letter to the EAT (of 8 June 2023) makes clear, claims that post-dated the discussion on 4 January 2021 were subsequently transferred without prior consultation with him, such that he could not properly be described as the relevant decision-taker in each of those cases. Other than in the cases involving Wolf Data Systems and Murat Tchoukour, we therefore agree with the claimant that it was wrong that the letters sent out confirming the transfer did not identify the name of the Judge who had made this

direction. Moreover, other than the claim brought against Wolf Data Systems, it was wrong that no explanation was provided for the transfer decision, albeit (pursuant to rule 62(4)) need only have been very short.

75. Although we thus consider the claimant has identified errors on the part of the ETs in these cases, it is hard to see that any injustice arises. As we have observed, the claimant was in fact well aware of the decision that underpinned each of these transfers: the letter of 19 January 2021 had clearly explained to him why his claims in London and the South East were being combined for case management purposes and had told him who had made this decision. Although the respondents to the claims in question did not have the same advantage, we are not aware that any of those concerned ever raised an objection. As the EAT made clear in **Faleye** (see paragraph 19 of that judgment), even if some injustice arose in the way the matter was handled by the ET, if no substantive injustice can be said to arise from the actual decision to transfer the proceedings it will be entirely appropriate for the EAT to exercise its powers under section 35 of the **Employment Tribunals Act 1996** to simply re-make the transfer order, rectifying the earlier error/s.

76. The claimant contends, however, that he has suffered a real injustice as a result of the errors made by the ET. Under his first ground of appeal, he also complains that he ought to have been given a reasonable opportunity to make representations before each of the transfer decisions was made and that, in each case, a reference ought to have been made to the order from the Watford ET requesting the transfer. In his oral argument, he has said that the failure to identify the decision-maker and to provide reasons for each of the transfer decisions meant that he was unable to properly appeal or to seek a reconsideration of those decisions. Moreover, by the second ground of appeal, the claimant says that he has suffered injustice as the transfers disrupted the progress of his claims, leading to hearings being postponed and to the proceedings being delayed; he has also complained that the combination of the proceedings might lead to his confidential information being disclosed.

77. We can deal shortly with the complaint that the transfer decision did not, in each instance, refer back to an order made by the Watford ET. As we have already observed, the claimant was aware of the original decision made by REJ Foxwell, as explained in the letter of 19 January 2021. Although we agree that the subsequent transfer letters ought properly to have provided brief reasons for the decision made in that case (which might well have simply involved attaching a copy of the 19 January 2021 letter), it cannot properly be said that the claimant suffered any prejudice in this regard.

78. We equally do not consider there is anything in the claimant's complaint that he was unable to pursue an appeal or an application for reconsideration because of any failure by the ET to identify the decision-taker or to provide reasons for the transfer decisions in issue. As a matter of fact, the claimant has pursued appeals against each of these decisions. It is also apparent that he sought a reconsideration of the transfer decision in the Wolf Data Systems case, and we have seen correspondence in which he similarly made a request that the transfer in the Hello Services claim be revoked. Indeed, at the hearing before us, the claimant emphasised that he had made a number of reconsideration applications, albeit he did not have all the relevant documentation available, as (he argued) he had not had proper forewarning that this might be an issue on his appeals. We do not accept that the claimant can reasonably say he was unaware that the question whether he had applied for reconsideration of the transfer decisions might be a relevant issue at this hearing: Judge Stout's directions in EA-2023-000834-AT (relating to the proceedings involving Cafe on the Hill) had made clear that it was. In any event, however, it is plain that the claimant was well aware that he was able to apply for the decisions to be varied or revoked and, notwithstanding any errors on the part of the ET, had sought to do so in at least two of the cases before us.

79. As for whether any error of law arose from the fact that the claimant was not afforded the opportunity to make representations in advance, we note that these were decisions made as part of the ET's case management of the proceedings. As rule 29 **ET Rules** makes clear, this provides the ET with a very broad discretion in how it manages the claims before it, expressly allowing that such decisions may be made without affording the parties concerned a prior opportunity to make representations, providing that, in such cases, the ET may then vary, suspend or set aside its earlier order where that is necessary in the interests of justice. Thus, as Judge Stout pointed out, to the extent that he considered it to be in the interests of justice, the course the claimant ought to have adopted was to apply to the ET for the transfer decision in issue to be set aside.

80. It is, of course, the claimant's case that he did ask the ETs for the transfers to be revoked; he complains that he did not receive responses to his emails. As this was a point advanced for the first time at the hearing before us, and without all the relevant documentation being available, it is not possible for us to be certain as to what happened in each of the cases before us and we have, therefore, decided to proceed on the basis that the claimant may well have made applications for the ET/s to re-visit these transfer decisions and that he did not receive a response. Adopting this course, we have therefore considered the matters raised by the claimant

under his second ground of appeal, in support of his argument that the transfers have given rise to a substantive injustice.

81. Approaching this question, we note that it is clear that a claimant has no right to choose where their ET claim is to be heard. Other than distinguishing between claims in England and Wales, on the one hand, and in Scotland, on the other, the **2013 Regulations** do not specify that ETs are to be located in any particular place, and, by regulation 7, the President is afforded a very wide discretion (which may be delegated to the REJs) to determine where ETs are to sit, and how work is to be allocated between them. The requirements for the presentation of a claim make no reference to the location of the parties, and the **ET Rules** (and the relevant presidential direction) are silent as to how cases are to be allocated once received. Where a decision is subsequently made for a case to be transferred, save that regulation 7 makes clear that this will either need to be a decision of the President or the relevant REJs, this can be freely done for any reason subject only to any question of the transfer giving rise to injustice (per **Faleye** at paragraph 15; and see **Berrendero**).

82. In the present case, where the transfer decisions meant that hearings had to be postponed, we can see that this might have been a relevant factor. Equally, the transfer of proceedings to Watford might have given rise to some inconvenience for the parties in terms of travelling to the ET (although, we note that none of the respondents seems to have objected, and this is not a point that the claimant has identified or could reasonably complain about given that a number of his claims had been allocated to the Watford ET without him raising any concern). It is less clear to us that case managing a larger number of claims should otherwise give rise to particular delays, or additional costs; on the contrary, given that the claimant's claims are put on almost identical bases, there would seem to be an obvious saving in time and costs if these were case managed together. As for the question of the claimant's confidential information, we are unable to see that this could give rise to a legitimate concern. No orders have been made anonymising any information in any of these cases, and we cannot see any basis on which such a derogation from the open justice principle could properly be made. On the other hand, however, compelling reasons have been provided for transferring all the claims made in the London regions to the Watford office, to be combined for case management purposes with claims in the South East region. As REJ Foxwell explained in his letter of 19 January 2021:

> "(1) each claim involves similar facts;
> (2) the claimant in each case gives the same PO Box address but the claimant's name given in the claim forms differs between Mr Ramos or Mr Garcia; the Tribunal must

> consider whether this is just one person and, if so, why he uses different names in different claims;
> (3) Mr Garcia made a similar claim in case 3318988/2019 (Garcia v The Gift Corner 3 Wishes Limited) which was dismissed and in which adverse findings were made about his credibility and the genuineness of the claim;
> (4) the claimant in the current claims makes no reference to the other current ones despite their relevance due to the obvious risk of double-recovery were he to succeed in more than one of them;
> (5) while it will be a matter for the judge hearing the case to decide, the above factors suggest that these claims are not based on genuine job applications and should therefore be struck out as an abuse of process or, alternatively, made the subject of a deposit order because they stand little prospect of success. Such orders cannot be made without a hearing.
> (6) The Tribunal has made these orders of its own motion because it is unlikely that the individual respondents will be aware of one another, of the similarities between their cases and/or the link between Mr Garcia and Mr Ramos."

83. Notwithstanding the earlier dismissal of his grounds of appeal in these further respects (and our ruling on the application to reinstate those grounds), in his arguments before us the claimant has again repeated his complaints that the transfer of the proceedings to be case managed together by the Watford ET will mean he will be victimised for having previously made a complaint about an Employment Judge in that region. There is, however, no basis for such an assertion. The reason why REJ Foxwell determined that these claims should be case managed together is because that would best serve the overriding objective, dealing with these cases fairly and justly by ensuring all parties are on an equal footing (with the respondents thus being aware of the other claims brought), that the proceedings are dealt with in a proportionate way, and avoiding the expense and delays that would occur in the claims being considered across a number of ET offices.

84. Notwithstanding the errors that we have identified in relation to the failure to identify the relevant decision-taker (in all but two of the cases before us) or to provide reasons for the decision (in all but one of the cases), we are clear that no injustice arises from the transfer decisions in these cases.

Disposal

85. Given the failure to identify the relevant decision-taker and/or to provide reasons for the decision in all but the claim against Wolf Data Systems, **we formally allow the claimant's appeals in EA-2021-001131-AT; EA-2022-000639-AT; EA-2022-000642-AT; EA-2022-000645-AT; EA-2022-001155-AT; EA-2022-001484-AT; EA-2023-000357-AT; EA-2023-000834-AT. We are, however, satisfied that no injustice arose from the transfer decisions, and, applying the overriding objective, that there can be only one answer in each of these cases, which is that dealing with the proceedings fairly and justly requires that**

the claims be transferred to the Watford office of the ET. **In these circumstances (having regard to the guidance of the Court of Appeal in Jafri v Lincoln College [2014] EWCA Civ 449, [2014] ICR 920), we are clear that the errors identified can have no material effect on the result and that it is appropriate to exercise our powers under section 35 Employment Tribunals Act 1996, to duly exercise the powers of the ET and confirm each of the transfer decisions made, for the reasons provided in REJ Foxwell's letter of 19 January 2021**.

86. **No errors arose in relation to the proceedings involving Wolf Data Systems, and the appeal in that case is duly dismissed**.