EMPLOYMENT TRIBUNALS

BETWEEN

CLAIMANT		**RESPONDENT**
CHUKWUBUIKEM OBI	**V**	**CYGNET BEHAVIOURAL HEALTH LIMITED**

HEARD REMOTELY AT: HAVERFORDWEST ON: 30 JANUARY 2025

BEFORE: EMPLOYMENT JUDGE S POVEY

REPRESENTATION:
FOR THE CLAIMANT: **MS BENNETT (EQUALITY 4 BLACK NURSES)**
FOR THE RESPONDENT: **MR LANGELY (COUNSEL)**

JUDGMENT having been sent to the parties on 4 February 2025 and written reasons having been requested in accordance with Rule 60(4) of The Employment Tribunal Procedure Rules 2024, the following reasons are provided:

REASONS

Background

1. This was the hearing and determination of the Claimant's response to the orders of Employment Judge Jenkins of 9 December 2024 and 3 January 2025. In summary, the Claimant's complaints appeared to Employment Judge Jenkins to have been presented out of time and therefore the Tribunal did not have the jurisdiction to consider them.

2. Those orders were made under what was at the time Rule 27 of the Employment Tribunals Rules of Procedure 2013 ('the 2013 Rules'). The 2013 Rules were replaced by The Employment Tribunal Procedure Rules 2024 ('the 2024 Rules') with effect from 6 January 2024 (under which, Rule 27 of the 2013 Rules became Rule 28 under the 2024 Rules) So far as relevant to the issues in this hearing, there were no material changes to the contents of the applicable rules.

3. The Claimant was employed as a nurse by the Respondent with effect from 15 January 2024. The Respondent says that there were allegations regarding the Claimant's conduct, culminating in a probation review meeting being held on 22 January 2024, which reconvened on 22 February 2024, where the Claimant's employment was terminated. On 4 March 2024, the Claimant appealed against that decision and an appeal hearing took place over two days, on 11 and 26 April 2024. By a letter dated 30 April 2024, the Respondent upheld the decision to dismiss the Claimant.

4. The Claimant commenced ACAS Early Conciliation on 25 July 2024 and it concluded on 23 August 2024. The Claimant presented his claim to the Tribunal on 16 September 2024. He brings complaints of automatic unfair dismissal and detriment for making protected disclosures, discrimination on grounds of race and disability, harassment on grounds of race and sex, failure to give notice and failure to provide reasons for dismissal.

5. The complaints, save one, are resisted in their entirety by the Respondent. The one exception is the failure to pay the Claimant his notice pay of one week's wages, which the Respondent says was an oversight and arrangements are being made to pay that sum to the Claimant (per Paragraph 90 of the Respondent's Grounds of Resistance). As part of its response to the claim, the Respondent raised that the complaints were brought out of time and that the Tribunal had no jurisdiction to consider them.

6. Upon initial consideration of the claim and response on 9 December 2024 by Employment Judge Jenkins, notice was issued under Rule 27 of the 2013 Rules (now Rule 28 of the 2024 Rules). The notice effectively required the Claimant to show cause why the claims should proceed, as they appeared to have been presented out of time.

The Hearing

7. The purpose of this hearing was, in effect, to decide the Claimant's application for permission for his claim to proceed (on the basis of showing that they were either not out of time or permission should be granted for them to proceed). That application was, in summary, premised on the following:

    7.1. That all the allegations formed a continuous act of discrimination, which culminated on 29 April 2024 and, so far as the complaints of discrimination were concerned, were therefore all presented in time.

    7.2. In the alternative, it had either not been reasonably practicable to present the complaints in time or they had been presented within such time as was just and equitable because of the following factors:

        7.2.1. The Claimant's mental health.

7.2.2. The Claimant's wife's physical health.

7.2.3. The death of the Claimant's grandmother.

7.2.4. The financial consequences for the Claimant of losing his employment with the Respondent.

7.2.5. Issues pertaining to the Claimant's professional life.

7.2.6. The Claimant's ignorance of the applicable time limits and his legal rights until July 2024 (when the Claimant approached his current representatives).

8. As directed by Employment Judge Jenkins, the Claimant provided evidence that he sought to rely upon in support of his applications, as follows:

8.1. A witness statement from the Claimant.

8.2. A witness statement from the Claimant's wife.

8.3. A witness statement from a representative from the organisation now representing the Claimant (although not Ms Bennett, who represented him at this hearing).

8.4. GP letters regarding the Claimant and the Claimant's wife.

8.5. Confirmation of the passing of the Claimant's grandmother's.

8.6. A letter dated 9 April 2024 to the Claimant from the Nursing & Midwifery Council ('the NMC').

9. In addition, and by agreement, I was provided with the minutes of the disciplinary appeal hearing which took place on 26 April 2024.

10. At the hearing before me, I heard oral evidence from the Claimant and received oral submissions from Ms Bennett for the Claimant and written and oral subs from Mr Langley for the Respondent.

The Applicable Law

11. Rule 28 of the 2024 Rules, so far as relevant, states as follows:

> **28.**—(1) If the Tribunal considers either that it has no jurisdiction to consider the claim, or part of it, or that the claim, or part of it, has no reasonable prospect of success, it must send a notice to the parties—
>
> (a) setting out the Tribunal's view and the reasons for it, and
>
> (b) ordering that the claim, or the part of it, is to be dismissed on such date as is specified in the notice unless before that date the Tribunal has received

written representations from the party advancing the claim explaining why the claim, or part of it, should not be dismissed.

…

(3) If the Tribunal receives written representations before the date specified under paragraph (1)(b), the written representations must be considered by the Tribunal, who must either permit the claim, or part of it, to proceed or fix a hearing for the purpose of deciding whether it should permit the claim, or part of it, to do so. The party responding or replying to that claim may, but need not, attend and participate in the hearing.

(4) If the claim or any part of it is permitted to proceed, the Tribunal must make a case management order.

Time limits: reasonably practicable

12. The time limits for complaints of detriment for making protected disclosures, automatic unfair dismissal for making protected discourse, failure to provide notice and failure to give written reasons for dismissal is three months from the date of the detriment or failure complained of, subject to the provisions regarding ACAS Early Conciliation (per sections 48(3), 93(3) &111(2) of the Employment Rights Act 1996; Article 7 of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994).

13. For the purposes of complaints of detriment for making protected disclosures, where an act of detriment extends of a period, the time limit begins to run from the end of that period (per section 48(4) of the Employment Rights Act 1996).

14. If complaints are not presented within the requisite time limits, they can only proceed if the Claimant can show that they were presented within such further period as the Tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.

15. In effect, the Claimant must show that it was not reasonably practicable to present the complaints in time. If he cannot, the Tribunal has no jurisdiction to consider and determine those complaints. If he can, he must also show that the complaints were presented within a further period which in itself was reasonable.

16. In considering whether the test of reasonable practicability has been made out, the Tribunal should adopt a liberal interpretation in favour of the employee. Regard should be had to what, if anything, the employee knew about the right to complain the Tribunal (including the time limits to do so) and also to what knowledge the employee should have had, had they acted reasonably in the circumstances (per Marks & Spencer plc v Williams-Ryan [2005] EWCA Civ 470).

17. Whether illness is sufficient to make it not reasonably practicable to submit a claim in time will be a question of fact for the Tribunal. It may be

relevant to consider what else the Claimant was able to do at the material time but each case will turn on its own facts and evidence (see, for example, Thorpe v Sainsbury's Supermarket Ltd [2023] EAT 20; Cygnet Behavioural Health Ltd v Britton [2022] EAT 108; University Hospitals Bristol NHS Foundation Trust v Williams UKEAT/0291/12).

Time limits: just & equitable

18. The time limits for presenting discrimination claims is in section 123(1) of the Equality Act 2010 (‘the EqA’):

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

19. If a complaint is presented out of time and not within another period which is just and equitable, the Tribunal has no power to consider it. However, for the purposes of calculating when the period begins to run, conduct extending over a period of time is treated as having been done at the end of the period (per section 123(3)(a) of the EqA 2010).

20. The Tribunal has a wide discretion when considering whether it is just and equitable to extend time (Bexley Community Centre (t/a Leisure Link) v Robertson [2003] EWCA Civ 576; Jones v Secretary of State for Health and Social Care [2024] EAT 2). When a claimant applies to extend time under section 123(1)(b), it is for them to show that the extension is just and equitable (Polystar Plastic Ltd v Liepa [2023] EAT 100).

21. ‘Just and equitable’ includes consideration of why the claim was presented out of time and what the respective prejudice to the parties would be if time was or was not extended (such that the claim could or could not proceed). The discretion is wide enough to also include a consideration of the merits of the case being pursued (Kumari v Greater Manchester Mental Health NHS Foundation Trust [2022] EAT 132).

Findings & Conclusions

22. The Claimant has a history of acute stress (per his GP letters). As well as losing his job, the Claimant has been engaged in proceedings with the NMC regarding fitness to practice allegations and concerns. Indeed, it is a plank of the Respondent’s substantive case that being informed by the NMC that the Claimant had been suspended from practising as a nurse was the principal reason for ending his employment (although there were also concerns regarding the Claimant’s alleged conduct).

23. It was not in dispute that the Claimant’s wife had a concerning pregnancy during 2024 or that his grandmother passed away in early 2024, at the age of 94.

24. These factors were relied upon, in part, for why, despite his employment being terminated with effect from 22 February 2024, the Claimant did not begin ACAS Early Conciliation until 25 July 2024, when it appeared that his claims were all presented out of time (on the basis that he should have started Early Conciliation by 21 May 2024 in order to get the benefit of extra time to present his claim).

25. However, first I turn to the Claimant’s submission that the claims are not in fact out of time as they constitute conduct extending over a period, which began on 15 January 2024 and ended on 26 April 2024, the second and final day of the disciplinary appeal hearing. If correct, the Claimant would have started ACAS Early Conciliation on the final day of the permitted time limit (namely three months less one day from the last alleged act). As the time limit would then expire during ACAS Early Conciliation, the Claimant would have had the benefit of 28 days from the end of ACAS Early Conciliation to present his claim. ACAS Early Conciliation ended on 23 August 2024. The claim was presented in form ET1 presented 16 September 2024 and would be in time.

26. In my judgment, there are several challenges facing the Claimant with that submission:

    26.1. The notion of conduct over a period of time arises in respect of the time limits under section 123 EqA 2010. It follows that, for the purposes of the Claimant’s case, such a concession is of no assistance to any complaint that is not one of discrimination. In other words, even if the conduct extended over a period of time, that does not assist regarding the non-discrimination complaints submitted out of time. It can only assist those complaints alleging unlawful discrimination.

    26.2. In the alternative, the provision that the time limit for an act extending over a period time starts to run at the end of the period time only applies to complaints of detriment for making protected disclosures (per section 48(4) of the Employment Rights Act 1996). That provision does not apply to the time limits for complaints of unfair dismissal or any other allegation unrelated to the making of alleged protected disclosures.

    26.3. As Mr Langley submitted, the test is one of conduct continuing over time, not conduct whose effects last over time. The decision to dismiss the Claimant was the conduct. The effects that continued over time was the Claimant’s appeal against that decision, which culminated in the appeal hearing, which concluded on 26 April 2024.

    26.4. The various complaints and allegations made by the Claimant relate to different people in different roles undertaking different

tasks. There are allegations against one of his managers, other allegations against additional staff involved, variously, in the probationary review, the decision to dismiss and the appeal. In particular, and crucial to the Claimant's submission of conduct extending over a period that would bring all allegations in time, the appeal against dismissal was undertaken and determined by someone wholly different from any of those involved in the decision to dismiss him or against whom the Claimant makes allegations of harassment.

26.5. As pleaded in his Particulars of Claim (at Paragraph 7), the Claimant's allegations regarding the appeal hearing are relied upon to support allegations of procedural unfairness in the decision to dismiss him. There is no pleaded allegation of discrimination to which to attach a continuing course of conduct. Absent any pleaded allegation of discrimination, the Claimant's allegations about what happened at the appeal hearing cannot form part of any continuing act.

27. For those reasons, whatever criticism the Claimant may have of the appeal hearing itself, I was unable to find that it was sufficiently connected to his earlier allegations to constitute conduct extending over a period of time. It follows that the claims were presented out of time.

28. I next considered the Claimant's explanations for why he presented his claims when he did and whether those explanations were adequate.

29. I began with the impact of the Claimant's health, family, professional and financial circumstances on his ability to pursue his claim.

30. There was force in Mr Langley's submission that losing employment was an understandably common feature in Tribunal claims and was, to that extent, not an unusual or significant factor. Rather, in my judgment, it appeared that what was being presented by the Claimant were a number of stressors which, it was submitted, when combined, rendered the Claimant incapable of taking any action regarding his Tribunal claim until he engaged with his current representatives.

31. Some support for that contention was found in the letters from the Claimant's GP, both of which were specifically requested to support the Claimant's Tribunal claim.

32. The letter of 17 October 2024 recorded that the Claimant consulted with his GP in April and May 2024, presenting with "*significant levels of acute stress"* because of the cumulative effects of the issues I have referred to above in the Claimant's private and professional lives. I note that the GP then shares his opinion as to how this would have effected the Claimant at that time (that is, in April and May 2024), as oppose to stating that that was how it actually affected the Claimant. In the GP's opinion, the stress that the Claimant was under would have "*significantly impaired his cognitive and emotional capacity and hindered his ability to manage*

legal tasks and meet the deadlines for filing his employment tribunal claim."

33. It is noteworthy that the GP says it would have hindered, not prevented, the Claimant's ability to meet deadlines or engage in legal tasks.

34. The GP letter of 17 December 2024 repeats the record of consultations in April and May 2024 and the opinion on the likely impact on the Claimant of the stressors in his life at that time. However, the GP also reports further information provided to him by the Claimant about his symptoms between May and July 2024. It is reasonable to assume that prior to being told of these symptoms, the GP was not aware of them (otherwise he would have referred to them in his 17 October 2024 letter). It is also reasonable to assume that the Claimant did not consult with his GP at the material time about these symptoms (otherwise the GP would have reported those consultations in his letter of 17 October 2024 and again in his letter of 17 December 2024). Rather, the GP refers to the cumulative effect of the stress on the Claimant "*even without direct contact with our practice".*

35. In the 17 December 2024 letter, and clearly based upon what, at some time after the 17 October 2024 letter, the Claimant had reported to the GP about his symptoms in May to July 2024, the GP expresses his professional opinion that the Claimant's "*ongoing stress and symptoms between May and July 2024 likely significantly affected his cognitive and emotional capacity to manage legal deadlines."*

36. The medical evidence relied upon fell short of supporting a finding that the Claimant was generally incapable of functioning or engaging with the sort of activities necessary to bring Tribunal proceedings. His mental health issues were being treated conservatively. There was no evidence from the Claimant or his GP of any prescription medication or other medical interventions regarding the treatment of his mental health (there was a submission by Ms Bennett about the use of prescription cannabis for pain and, in what appeared to be a somewhat opportunistic submission, how the absence of that form of medication would impact upon the Claimant but this was not part of the Claimant's evidence and was not supported by any documentary evidence adduced on behalf of the Claimant; as such, I was unable to attach any meaningful weight to it).

37. It is important to remember what else the Claimant was doing at this time. He was engaged in proceedings with the NMC, for which he retained and instructed a representative from the Royal College of Nursing ('the RCN') and, by extension, legal counsel. He pursued and actively engaged in an appeal against the decision to dismiss him, for which he retained and instructed a representative from the RCN. At some point in July 2024, the Claimant instructed his current representatives to pursue Tribunal proceedings, albeit he says that until that point he was unaware of the applicable time limits.

38. It is unclear whether the Claimant's GP was aware of what else the Claimant was capable of doing at the time in question or whether, had he been aware, that would have impacted upon his opinion. Nonetheless, the Claimant's GP was clear in his opinion that the Claimant's health affected his ability to meet legal deadlines and manage his Tribunal claim. It did not however incapacitate him and this was evident from what the Claimant was able to do in the legal and quasi-legal arenas of employment-related disciplinary proceedings and regulatory fitness to practice proceedings with the NMC.

39. As detailed, it was not in dispute that for both his disciplinary proceedings with the Respondent and the NMC proceedings, the Claimant had the support and advice of the RCN. Indeed, his RCN representative attended the disciplinary and appeal hearings with the Claimant and the Claimant was legally represented at the NMC hearings.

40. That is relevant as it goes to the submission by the Claimant that he was wholly unaware of the time limits for bring Tribunal claims or the process for starting Tribunal proceedings until July 2024, when he instructed his current representatives.

41. I had difficulties with that submission. It appeared to me inconceivable that the RCN would not inform a member who had been dismissed and who was making various allegations of discrimination and whistleblowing of the ability to pursue a claim in the Tribunal and the associated time limits. Even taking the Claimant's evidence at face value (that he was not informed by the RCN), there was no good reason for why the Claimant could not have made the most cursory enquiries of his RCN representative about how to challenge his dismissal and the alleged acts of discrimination and detriment or to have undertake his own online enquiries.

42. Ms Bennett and the Claimant alluded to the complexity of the claim as an impediment to bringing the case earlier. The difficulty with that submission was clear from the evidence:

    42.1. The Claimant was of the view that he had major issues with how he had been treated by the Respondent and those issue arose, as he saw them, some time before he approached his current representatives.

    42.2. The Claimant had then been able to explain his concerns and complaints to the RCN, who assisted him in resisting the disciplinary proceedings, appealing the outcome and raising various allegations against the Respondent and its employees, premised on the very concerns and complaints he pursues now.

    42.3. The Claimant had been able to retain and instruct the RCN on his NMC case and by extension retain and instruct legal counsel (which although not directly relevant to the issues he raises in this

case, demonstrates his ability to engage with complex professional regulations and codes of conduct).

43. Whatever complexities existed within the Claimant's case, he demonstrated a keen understanding of it within the disciplinary process and was able to seek legal advice and assistance to pursue those allegations (namely, the RCN). As such, I was unable to conclude that the nature or complexity of the complaints now being pursued prevented the Claimant from presenting his claim earlier than he did.

44. Drawing those threads together, the Claimant has not provided an adequate explanation for why he presented his claims out of time.

45. I move on to consider whether the Tribunal can or should exercise its powers to permit some or all of the complaints to proceed.

Reasonable practicability

46. This related to the following complaints:

    46.1. Automatic unfair dismissal for making protected discloses
    46.2. Detriment for making protected disclosure
    46.3. Failure to pay in lieu of notice (wrongful dismissal)
    46.4. Failure to provide written reasons for dismissal

47. In my judgment, it was reasonably practicable for the Claimant to have presented these complaints within the requisite time limit. Despite his health, personal and professional issues, for which he consulted his GP in Apr and May 2024, the Claimant was able to engage in the disciplinary process with the Respondent, able to submit an appeal and engage in the appeal process, able to instruct his RCN representative and able to engage in the NMC proceedings (which again included retaining and instructing legal representatives).

48. I am reminded that the Claimant was not saying that he was aware of the time limits but too ill or incapacitated to act on them. His case was one of ignorance.

49. Any alleged ignorance of the applicable time limits for bringing Tribunal proceedings was unreasonable, since the Claimant had access to professional representation and trade union support during the relevant time (whether in his disciplinary proceedings with the Respondent or during the NMC proceedings). Even if, as he claims, he was not made aware of the time limits or the availability of recourse to the Tribunal, it was reasonable for him to have made those enquiries of the RCN or to have undertaken the most cursory of investigations.

50. For all those reasons, it was reasonably practicable for the Claimant to present those complaints in time. As such, there is no power to extend time, the Tribunal has no jurisdiction to consider them, and they are dismissed.

<u>Just & equitable</u>

51. This related to the following complaints:

    51.1. Discrimination
    51.2. Harassment
    51.3. Victimisation

52. I reminded myself of the medical evidence and of what the Claimant was capable of doing at the relevant time (as detailed above). I also reminded myself that it was reasonable for the Claimant to have been aware of the applicable time limits.

53. Having regard to those factors, I was unable to find on balance that the Claimant's health issues (that is, the stress he was suffering as a result of losing his job, dealing with the NMC proceedings, his wife's pregnancy and the loss of his grandmother) had rendered him incapable of presenting his claim in time. That conclusion is reinforced by the legal and quasi-legal proceedings he was engaged in at the relevant time (and for which he retained and instructed both his RCN representative and legal counsel).

54. It follows that it was reasonable for the Claimant to have been aware of the applicable time limits and his mental health did not incapacitate him to such an extent that he was unable to act on those time limits.

55. The discretion afforded to the Tribunal under section 123 of the EqA 2010 is wide (and more generous than that the test of reasonable practicability). However, the failure to provide an adequate explanation for why the complaints were presented out of time is a significant factor. The test is whether they were presented within such other period of time as the Tribunal considers just and equitable. Inherent in that exercise is an understanding of why the original, statutory time limit was missed. The Claimant has failed to provide a satisfactory answer to that aspect of the exercise.

56. It is for the Claimant to explain the delay and to show that it is, in effect, just and equitable to extend time and allow the complaints to proceed. I repeat my primary finding. The Claimant was not prevented from presenting his claim in time or at any time before 18 September 2024 because of his mental health or his personal circumstances or his knowledge or otherwise of the Tribunal time limits.

57. Although not expressly addressed on it by the Claimant (although I was by the Respondent), I went on to consider the relative prejudice to the parties of allowing and refusing these complaints to proceed.

58. Refusing to allow the complinats to proceed would deprive the Claimant of the opportunity to have his allegations considered and determined by the Tribunal. It was not suggested that there was any other prejudice to the Claimant, over and above that self-evident one.

59. Allowing them to proceed would require the Respondents to answer allegations which, to a degree, they were entitled to consider had been addressed and resolved by way of the disciplinary procedure. The Respondent was under the reasonable impression, at least until late July 2024, that the Claimant was not proposing to pursue his complaints by way of legal proceedings.

60. I was also addressed (properly and fairly by Mr Langley) on the merits of discrimination allegations, as pleaded. I reminded myself that, having heard no evidence nor made any findings on what actually took place during the Claimant's employment, I must take the allegations at their highest. That was understood by Mr Langley, who quite properly acknowledged that the harassment allegations were, in effect, a pure dispute of fact (i.e. whether or not what the Claimant alleges was said to him by his manager was said or not).

61. However, there was force in Mr Langley's submission on the merits of the reasonable adjustments complaint, which was pleaded as follows (para 2 PoC):

> The claimant's medicinal cannabis use was prescribed to manage a health condition that may qualify as a disability under the Equality Act 2010. As such, the employer had a duty to make reasonable adjustments to accommodate his health needs, including allowing necessary health-related breaks. The employer's refusal to provide these adjustments and its subsequent dismissal of the claimant amounts to disability discrimination.
>
> The claimant had a legal entitlement to these adjustments, and the employer's failure to accommodate his condition or consider the implications of his lawful treatment reflects a clear breach of the duty to provide reasonable adjustments under the Equality Act 2010.

62. The Claimant was employed as a nurse in an environment that treated, amongst others, those who had used or were recovering from the use of controlled substances. Cannabis is a controlled substance. To allow a nurse treating those with such histories and backgrounds to take breaks in order for him to imbibe prescription cannabis will, in my judgment, struggle to meet the threshold of being a <u>reasonable</u> adjustment (emphasis added).

63. Similarly, the Claimant is likely to struggle with his allegation that his dismissal was motivated by his race and/or any alleged disability, in circumstances where he was subject to a interim suspension order by the NMC, which meant that he was unable to practice as a nurse. If correct (and the Claimant did not resile in his pleaded case or in his evidence for this hearing to the fact that he was, at that time, subject to an interim suspension order), it would have not only been impossible but also in breach of the NMC order for the Respondent to continue employing the Claimant as a nurse.

64. In my judgment, the balance of prejudice fell in favour of the Respondent. The explanation for why the Claimant did not bring these

complaints in time was unsatisfactory. That weighed heavily against him. The Respondent was entitled to conclude that Tribunal proceedings were not being pursued by the Claimant's failure to act until some time after the applicable deadline for starting the ACAS Early Conciliation process had passed. There are, even when taken at their highest, some obvious shortcomings and weaknesses in aspects of the Claimant's case as pleaded.

65. For all those reasons, the discrimination, harassment and victimisation complaints were presented out of time and not presented within a further period which was just and equitable, having regard particularly to the reasons for them being out of time and the relative prejudice to both parties of allowing and refusing the extension of time application.

66. It follows that Tribunal has no jurisdiction to consider them, and they dismissed.

Post-script

67. The Claimant's Particulars of Claim refer to complaints under section14 of the EqA 2010 and under the Health & Safety at Work Act 1974 ('the 1974 Act'), albeit no further detail is provided.

68. I was not addressed on these complaints specifically.

69. However, section 14 of the EqA 2010 was never brought into force and continues not to be in force. As such, the Tribunal has no jurisdiction to consider any complaint which relies upon it and the complaint, so far as it is being pursued, is dismissed.

70. The Tribunal's jurisdiction regarding the 1974 Act is limited to appeals against notices served on employers by the Health & Safety Executive and complaints regarding the rights of designated safety representatives in the workplace. Those are not complaints being advanced by the Claimant. The Tribunal has no jurisdiction to consider any other provision under the 1974 Act and as such, to the extent it is being pursue, that complaint is also dismissed.

Approved by:
EMPLOYMENT JUDGE S POVEY
Dated: 14 February 2025

Order posted to the parties on

17 February 2025

Kacey O'Brien

For Secretary of the Tribunals

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